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Rules, Regulations, Orders

**TITLE 7—AGRICULTURE
AGRICULTURAL ADJUSTMENT
ADMINISTRATION**

PROCLAMATION WITH RESPECT TO BASE
PERIOD TO BE USED FOR PURPOSE OF
MARKETING AGREEMENT AND ORDER
REGULATING HANDLING OF FRESH PRUNES
GROWN IN UMATILLA COUNTY IN STATE
OF OREGON, AND WALLA WALLA AND
COLUMBIA COUNTIES IN STATE OF WASH-
INGTON

By virtue of the authority vested in the Secretary of Agriculture by the terms and provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the Secretary of Agriculture hereby finds and proclaims that, in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, the purchasing power of such fresh prunes during the base period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such fresh prunes can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period August 1919-July 1929; and the period August 1919-July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of fresh prunes in that area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set

his hand and caused the seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 19th day of July, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture

[F. R. Doc. 38-2079; Filed, July 20, 1988;
9:32 a. m.]

ORDER REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE OF FRESH PRUNES GROWN IN UMATILLA COUNTY IN STATE OF OREGON AND WALLA WALLA AND COLUMBIA COUNTIES IN STATE OF WASHINGTON

Whereas, it is provided in Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended (hereinafter called the act), as follows:

Sec. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, as would establish prices to growers at a level that will give such fresh prunes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such fresh prunes in the base period, did

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unstable marketing conditions for said fresh prunes and consequently depressed prices to growers;

(4) That the regulation of shipments of fresh prunes by grades and by other methods prescribed by this order will tend to prevent fluctuations of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stable market for said fresh prunes and tend to restore prices to growers of fresh prunes to a level that will have a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of fresh prunes in the base period;

(5) That the methods provided for the regulation of shipments are fair and equitable;

(6) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act; and

(7) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to fresh prunes grown in the said area by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such fresh prunes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such fresh prunes in the base period and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary further finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) That customarily more than 95 per cent of all shipments of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington is in the current of interstate or foreign commerce and directly burdens, obstructs or affects such commerce;

(2) That at the time of the hearing the prices received by the growers of such fresh prunes were at a level that gave such fresh prunes a purchasing power with respect to articles that such growers buy appreciably below the purchasing power of such fresh prunes during the base period;

(3) That in the past, lack of regulation of shipments of fresh prunes produced in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, was an important factor contributing to

(8) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of fresh prunes shipped, as provided in this order, is fair and equitable; and

Whereas, the Secretary of Agriculture further finds:

(1) That the marketing agreement regulating the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, executed by him on July 19, 1938 and upon which a public hearing was held on May 3, 1938, was signed by handlers

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who handled more than fifty percent of such commodity produced during the period August 1, 1936—October 1, 1937; and

(2) That this order regulates the handling of said fresh prunes in the same manner as the said marketing agreement does, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers, who, during the marketing seasons of 1936 and 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such order;

Now, therefore, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid, that the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce in such fresh prunes from and after the date herein specified shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I.—DEFINITIONS

SECTION 1. Terms.—As used in this order, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended.

3. "Person" means individual, partnership, corporation, association, or any other business unit.

4. "Prunes" means and includes all varieties of fresh prunes of the species *Prunus domestica* grown in the area described in paragraph numbered 11 in this section, and shipped in fresh form.

5. "Grower" or "producer" means any individual, each member of a partnership, any corporation, association, or any other business unit engaged in growing prunes, in the area covered by this order, who or which has a financial interest in the crop.

6. "Handler" or "shipper" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in prunes, either in person or as or through an agent, broker, representative or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce.

7. "To handle" means to ship, market, sell, consign or in any way deal in prunes, either in person or as or through

an agent, broker, representative or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce.

8. "To ship" means to convey in, to ship in, or to cause to be conveyed in, or in any other way to put prunes in, the channels of trade by conveying or causing prunes to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of prunes owned by another person), in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

9. "Control Committee" means the Control Committee provided for in, and created pursuant to, article II of this order.

10. "Fiscal year" means the period of twelve (12) months beginning May 1 and ending April 30, both inclusive, of each calendar year.

11. "Area" means Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington.

ARTICLE II.—ADMINISTRATIVE BODY

SECTION 1. Control committee membership.—1. A Control Committee, consisting of nine (9) members, is hereby established to administer the terms and provisions of this order as herein specifically provided. There shall be an alternate for each of said nine (9) members of the Control Committee. The initial members and alternates shall be selected in accordance with the provisions of this article and shall serve for a term ending April 30, 1939. The members and alternates of said Control Committee selected subsequent to those selected for the aforesaid initial period ending April 30, 1939, shall be selected in accordance with the provisions of this article and shall serve for a term of one year, beginning on May 1. In the event any members or alternates, selected subsequent to those selected for the aforesaid initial period ending April 30, 1939, are selected or have qualified subsequent to May 1 of any year, the term of said members or alternates shall end on April 30, following their selection. All members or alternates shall serve until their successors shall have been selected and shall have qualified. Any person selected as a member or alternate of the Control Committee shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

2. One member of the Control Committee and his alternate shall represent growers of prunes. Such member and his alternate shall be selected by the Secretary from two nominees designated by all growers of prunes at an election held at a general meeting in which all growers of prunes shall be entitled to participate, or from other growers of

prunes in the area covered by this order. At any such election, designating the two nominees aforesaid, each grower shall cast only one vote for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. Each grower member and alternate so nominated shall be a grower, who produces prunes in the area covered by this order and who does not handle prunes in excess of twenty (20) percent of the quantity grown by him, nor shall such member or alternate be an employee or representative of a handler.

3. One member of the Control Committee and his alternate shall represent growers of prunes not members of the Blue Mountain Prune Growers Cooperative. Such member and his alternate shall be selected by the Secretary from two nominees designated by all growers of prunes not members of the Blue Mountain Prune Growers Cooperative at an election held at a general meeting, in which all such growers of prunes shall be entitled to participate, or from other growers of prunes not members of the Blue Mountain Prune Growers Cooperative in the area covered by this order. At any such election, designating the two nominees aforesaid, each grower shall cast only one vote for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. Each grower member and alternate so nominated shall be a grower, who produces prunes in the area covered by this order and who does not handle prunes in excess of twenty (20) percent of the quantity grown by him, nor shall such member or alternate be an employee or representative of a handler.

4. Four members of the Control Committee shall represent all handlers of prunes. The four members of the Control Committee and their respective alternates, representing handlers of prunes, shall be selected by the Secretary from a group of eight nominees designated by handlers of prunes in the area included in this order, at an election held at a general meeting in which all handlers of prunes shall be entitled to participate, or from other handlers of prunes in said area. At any such election, designating the group of eight nominees aforesaid, each handler shall cast only one vote for each standard car or equivalent quantity of prunes handled, in interstate or foreign commerce, by such handler during the season next preceding the year in which the election is being held, on behalf of his agents, partners, affiliates, subsidiaries, and representatives; *Provided, however,* If any such handler shipped in interstate or foreign commerce less than one standard car or equivalent quantity of prunes during such season, such handler shall be entitled to cast one vote in said election.

5. Three members of the Control Committee and their respective alternates shall represent the Blue Mountain Prune Growers Cooperative. The three members of the Control Commit-

tee and their respective alternates, representing the Blue Mountain Prune Growers Cooperative, shall be selected by the Secretary from six nominees designated by and from the Board of Directors of said Cooperative, or from other members of the said Cooperative.

6. Nominees for members of the Control Committee to represent the handlers, growers and the Blue Mountain Prune Growers Cooperative and their respective alternates whose term of office shall expire on April 30, 1939, shall be selected at meetings of the handlers, growers and the Board of Directors of the Blue Mountain Prune Growers Cooperative called by the Secretary, or such person as the Secretary may designate, as soon as practicable after the effective date of this order.

Each of such meetings shall select its chairman and secretary. After the selection of the nominees to represent handlers, growers and the Blue Mountain Prune Growers Cooperative, from whom the Secretary may select the members and alternates to represent the handlers, growers and the Blue Mountain Prune Growers Cooperative, respectively, the chairman and the secretary of each of the meetings shall forthwith transmit to the Secretary, or to such person as the Secretary may designate, their certificate as to the number of votes cast for said nominees and the names of the nominees so designated.

Nominees for the handler members, the grower members, and the members representing the Blue Mountain Prune Growers Cooperative, and their respective alternates, selected subsequent to those selected for the aforesaid initial period ending April 30, 1939, shall be designated by the aforesaid respective groups each year not less than 20 days nor more than 40 days prior to April 30; and said nominees shall be designated at meetings and elections caused to be held by the Control Committee, and said meetings and elections shall be of the same character and specification, and the procedure shall be substantially the same, as specified hereinabove for the designation of nominees for the initial period ending April 30, 1939.

7. To fill any vacancy occasioned by the failure of any person, selected as a member of the Control Committee or selected as an alternate, to qualify, or the death, removal, resignation or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected at a meeting in the manner heretofore indicated. If a successor for any such vacancy is not selected within 20 days after such vacancy occurs, the Secretary may select such member or alternate without regard to his nomination, or may select a successor to fill such vacancy from persons not nominated at an election so held.

8. An alternate for a member of the Control Committee, selected pursuant to the provisions of this order, shall act in the place and stead of such member, in

event of such member's absence, or until a successor for the unexpired term of such member has been selected, in the event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death.

9. The members of the Control Committee, and their respective alternates shall serve without compensation, but said members and their respective alternates shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

SEC. 2. *Powers.*—The Control Committee shall have the following powers:

1. To administer, as herein specifically provided, the terms and provisions of this order;
2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of, this order;
3. To receive, investigate, and report to the Secretary complaints of violations of this order; and
4. To recommend to the Secretary amendments to this order.

SEC. 3. *Duties.*—The duties of the Control Committee shall be as follows:

1. To act as intermediary between the Secretary and any producer or handler;
2. To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee, and such minute books and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary;
3. To investigate, from time to time, and assemble data on, the growing, shipping and marketing conditions respecting prunes grown in the area covered by this order, and to furnish to the Secretary such available information as may be requested;
4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, 74th Congress, approved August 24, 1935, as amended;
5. To cause the books of the Control Committee to be audited by one or more competent accountants at least once each fiscal year and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;
6. To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;
7. To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee; and
8. To select a chairman of the Control Committee and, from time to time, such other officers as it may deem advisable.

SEC. 4. *Procedure.*—1. The Control Committee shall not perform any of its powers or duties herein prescribed while there are more than two vacancies in its membership. A quorum shall consist of seven (7) members, or alternates then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Committee shall be made by not less than six (6) affirmative votes.

2. The Control Committee may provide for members voting by telephone, mail or telegraph upon due notice to all members, and promptly after voting by telephone, the members thus voting shall confirm in writing the votes so cast by telephone.

3. The members of the Control Committee, including successors and alternates, and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 5. *Funds and other property.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal or expiration of the term of office of any member of the Control Committee or of any employee of the Control Committee all books, records, funds and other property in his possession shall be delivered to the Control Committee or to his successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or his successor full title to all the books, records, funds and other property in the possession or under the control of such member or employee pursuant to this order.

3. The Control Committee may, with the approval of the Secretary, maintain in its own name, or in the names of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses.

ARTICLE III.—REGULATION OF SHIPMENTS

SECTION 1. *Establishment of regulation period.*—1. It shall be the duty of the Control Committee to investigate supply and demand conditions with respect to prunes. Whenever such conditions make it advisable to regulate the shipment of prunes, the Control Committee shall recommend to the Secretary the establishment of a regulation

period or series of regulation periods during which the shipments of prunes may be regulated pursuant to the provisions of this article. Such recommendation of the Control Committee shall be made at a meeting of the Control Committee held at least 24 hours prior to the commencement of such recommended regulation period or series of regulation periods. The Control Committee shall promptly notify all growers and shippers of such recommendation by giving notice in such manner as it shall deem adequate under the circumstances.

2. Based upon such recommendations made pursuant to paragraph 1 of this section or other information available to the Secretary, the Secretary may establish a regulation period or series of regulation periods, if the Secretary shall find that to establish a regulation period or series of regulation periods for shipments of prunes in the current of interstate or foreign commerce during the particular period or periods within the season would tend to effectuate the declared policy of the act, and he shall notify the Control Committee of the establishment thereof, as well as of the time of commencement, duration and termination thereof.

SEC. 2. Computation of quantity available for Shipment.—1. The Control Committee, prior to the beginning of shipments in each season, shall compute the total quantity of prunes which will be available for shipment during the season. To assist in such determination, each shipper shall report to the Control Committee, in such form and substantiated in such manner as the Control Committee may prescribe, the total quantity of prunes available for shipment to which he has legal title or for which he has authority from the owners or growers thereof to handle, and also the name of each such owner or grower and the quantity of prunes which such shipper is authorized to handle for each such owner or grower. Each grower having prunes which no shipper has authority to handle may in like manner report to the Control Committee his total quantity of prunes available for shipment during the season. Such reports and the orchards represented by them may be checked by the Control Committee or the employees duly designated by it in such manner as may be necessary to arrive at a reasonably correct determination of the total quantity of prunes available for shipment during such season, and on the basis of such check or recalculation of the reports submitted by each shipper or grower, the Control Committee may revise any such report. The total quantity of prunes available for shipment by each grower and handler for the remainder of a season may be revised at the beginning of any regulation period whenever such revision is substantiated by additional information available to the Control Committee or the Secretary.

The Control Committee shall report to the Secretary all determinations and recommendations of the Control Committee pursuant to the provisions of this section and the evidence on which such determinations and recommendations were predicated.

2. The Control Committee shall advise each shipper and each grower who has reported prunes available for shipment of the result of the original determination or any revised determination of the Control Committee with regard to the probable total quantity of prunes available for shipment by such shipper and grower during the season or remainder of the season.

SEC. 3. Determination of total advisable shipments.—For each regulation period established pursuant to section 1 of this article, the Control Committee shall procure available evidence concerning the supply of and demand for prunes during the period for which regulation of shipments is contemplated and from such evidence the Control Committee shall determine the total quantity of prunes which it deems advisable to be shipped during such regulation period or during each day within a regulation period. The evidence procured pursuant to this section and the recommendation of the Control Committee as to total or daily advisable shipments during any regulation period shall be transmitted to the Secretary.

SEC. 4. Fixing of allotments by the Secretary.—1. From the reports made pursuant to sections 2 and 3 of this article and other available information, the Secretary shall determine (a) the total quantity of prunes available for shipment by each and all shippers and growers during the season or the remainder of the season, and (b) the total quantity of prunes advisable to be shipped during the regulation period, or (c) the quantity advisable to be shipped each day during the regulation period. Thereupon the Secretary shall fix the allotment for each shipper and grower reporting prunes available for shipment by directing; (a) that the allotment for each shipper or grower for such regulation period shall be that percentage of the total quantity of prunes advisable for shipment during the regulation period which the total quantity of prunes available for shipment by each such grower and shipper during the season or the remainder of the season is of the total quantity of prunes available for shipment by all shippers and growers during the season or the remainder of the season; or (b) that the allotment for each shipper and grower for each day during such regulation period shall be that percentage of the total quantity of prunes advisable for shipment during each day of the regulation period which the total quantity of prunes available for shipment by each shipper or grower during the season or the remainder of the season is of the total quantity of prunes available for shipment by all shippers and growers

during the season or the remainder of the season. The Control Committee shall notify, by such methods as may be deemed adequate, under the circumstances, each shipper and grower of the amount of his allotment.

2. Each shipper shall apportion the quantity of prunes represented by his allotment equitably among the growers whose prunes he reported to the Control Committee pursuant to section 2 of this article.

SEC. 5. Lending and transfer of allotments.—Subject to such procedural rules and regulations as the Control Committee, with the approval of the Secretary, may prescribe, shippers and growers to whom allotments have been made may transfer such allotments in whole or in part. The amount of such transfer shall be deducted from the allotment of the transferor and added to the allotment of the transferee. Shippers may also borrow allotments or portions of allotments from other shippers: *Provided*, That the shipper borrowing the allotment shall agree to return to the lender at a later period of time in the same shipping season an allotment or portion of an allotment of the same quantity. The lending of allotments shall be subject to such procedural rules and regulations as the Control Committee, with the approval of the Secretary, may prescribe.

SEC. 6. Over and undershipments.—No shipper shall ship prunes in excess of his allotment for any regulation period or any day within a regulation period, except for additional allotments transferred or borrowed from a shipper or grower pursuant to the provisions of this article: *Provided, however*, That in the event such shipper's daily allotment plus all allotments transferred to such shipper, shall give such shipper the right to ship a fractional part of a carload, such shipper may ship such fractional carload at such later date as will permit the accumulation of such fractional carloads into one whole carload. The Control Committee shall endeavor to secure such transfers among the shippers holding allotments for such fractional carloads as will cause the shipment of such accumulated fractional carloads to be evenly distributed over the regulation period.

SEC. 7. Modification or termination of regulation period.—If the limitation of shipments during any regulation period is rendered unnecessary by reason of unforeseen increased demand, reduction in the available supply or other causes, the Secretary may modify or terminate such regulation.

SEC. 8. Shipments for charitable and relief purposes.—Nothing contained in this order shall be construed to authorize any limitation of the right to ship prunes for consumption by charitable institutions or distribution by relief agencies.

ARTICLE IV.—REGULATION BY GRADE

SECTION 1. Recommendation.—1. Whenever the Control Committee deems

it advisable to regulate the shipment of any grade of prunes for a specified period, it shall so recommend to the Secretary. In such event the Control Committee shall furnish to the Secretary all information and data upon which such recommendation is based, including but not being limited to information with respect to the factors affecting the supply of and demand for prunes by grade. Such recommendation, including the time of commencement and termination of the regulation period, shall be made at a meeting of the Control Committee held at least twenty-four hours prior to the commencement of such regulation period. The Control Committee shall notify handlers and growers of such recommendation by giving notice thereof in such manner as it may deem adequate under the circumstances.

2. Based upon such recommendation made pursuant to paragraph 1 of this section, or other information available to the Secretary, the Secretary may establish a regulation period, if the Secretary shall find that to limit the shipment of a particular grade of prunes in the current of interstate or foreign commerce, during such regulation period, would tend to effectuate the declared policy of the act. Such regulation of shipments of prunes may be accomplished by (a) prohibiting the shipment of certain grades during such period, or (b) by prohibiting the shipment of a part of any grade. When the Secretary has determined to regulate shipments as provided in this article, he shall immediately notify the Control Committee of such determination, and the Control Committee shall immediately notify shippers and growers of such determination by giving notice in such manner as the Control Committee shall deem adequate under the circumstances.

SEC. 2. Exemptions.—1. In the event of a regulation period established pursuant to the provisions of this article, the Control Committee shall determine the percentage which the grades of the prunes permitted to be shipped is of the total crop which would be shipped in the absence of regulation under this article. The Control Committee shall announce forthwith this percentage and the procedure by which exemption certificates will be issued to growers pursuant to this section.

2. If any grower shall present proof to the Control Committee that the regulation of shipments will permit the shipment during the period of a percentage of his prunes less than the percentage found in accordance with paragraph 1 of this section, the Control Committee shall issue to him an exemption certificate allowing the shipment of such quantity of the limited grade as will make the percentage of his crop that may be shipped equal to the percentage found in accordance with paragraph 1 of this section. If any grower is dissatisfied with the determination by the

Control Committee with respect to such exemption certificates, he may appeal to the Secretary, and the Secretary may modify or cancel the issuance of exemption certificates, or the Secretary may authorize the issuance of exemption certificates. The authority of the Secretary to supervise and control the issuance of exemption certificates is plenary and complete, and any determination made by the Secretary with respect to exemption certificates shall be final.

SEC. 3. Grading and certification.—1. During any grade regulation period or periods established pursuant to the provisions of this article, all shipments of prunes, in interstate or foreign commerce, grown in the area covered by this order shall be graded and certified on the basis of the grades now promulgated by the United States Department of Agriculture, or as the same may be modified or changed hereafter.

2. Each handler, prior to making each shipment of prunes in interstate or foreign commerce during any such regulation period established pursuant to this article, shall have the prunes included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service, and each such shipper shall submit promptly, or cause to be submitted promptly, to the Control Committee shipping point inspection certificates issued by the Federal-State Inspection Service stating the grade of prunes in each such shipment.

ARTICLE V.—PRICE FILING AND POSTING

SECTION 1. Recommendation.—Whenever the Control Committee deems it advisable that prunes should be sold by handlers only at prices filed by such handlers, it may so recommend to the Secretary. Such recommendation, including the time of commencement and termination of the regulation period, shall be made at a meeting of the Control Committee held at least twenty-four hours prior to the commencement of such regulation period.

SEC. 2. Establishment.—Based upon such recommendation made pursuant to section 1 of this article, or other information available to the Secretary, the Secretary may establish a regulation period during which time handlers shall file, in the manner hereinafter prescribed, prices at which such handlers may quote, offer for sale or sell prunes, if the Secretary deems that such regulation of the flow of shipments of prunes during the regulation period would tend to effectuate the declared policy of the act.

SEC. 3. Notice of regulation.—Whenever the Secretary establishes a regulation period pursuant to the provisions of this article, he shall notify the Control Committee thereof. The Control Committee shall promptly notify shippers and growers of such regulation by giving notice in such manner as the Control Committee shall deem adequate under the circumstances, and the Con-

trol Committee shall give notice likewise of all regulations issued and forms prescribed as it may deem advisable to procure the dissemination of information to all interested persons.

SEC. 4. Price filing and posting.—Immediately after a price filing regulation period becomes effective, pursuant to the provisions of this article, each handler shall file with the Control Committee a complete schedule of prices at which he quotes, offers for sale or sells prunes; *Provided, however,* That such filed prices shall not apply to prunes sold at auction by such handlers. All such schedules and revisions thereof filed pursuant to this section of this article shall be posted in the office of the Control Committee. The Control Committee shall notify all handlers in the area covered by this agreement of all price schedules or revisions thereof by mail posted at or before the end of the same business day such schedule or revision thereof was filed. Such notice shall state the time at which such filed price schedules or revisions thereof shall become effective.

SEC. 5. Revision of price schedules.—In event any handler desires to quote, offer for sale or sell prunes at a price or prices different from the price or prices stated in the schedule filed by him with the Control Committee, such handler shall file with said Committee a revised schedule of his prices. Such revised schedule shall become effective at such time as may be established by the Control Committee, after it has been received by the Committee; *Provided, however,* That if such period of time is less than twenty-four (24) hours or more than forty-eight hours, it shall be approved by the Secretary. If any handler files a revised price schedule any other handler may file a revised price schedule which shall become effective at the same time as the schedule filed by the first handler; *Provided,* Such price schedule is not lower than that filed by the first handler.

SEC. 6. Manner of filing prices.—The Control Committee shall prescribe a standard form of price schedule on which each handler shall file his selling prices, discounts, all other terms and conditions of sale and such other information deemed necessary by the Control Committee for each grade and type of pack of prunes. Price schedules filed or revised by telephone shall be confirmed as soon as possible on standard forms signed by the handler. The Control Committee shall cause the exact time and date that any schedule is received to be written on forms prescribed therefor.

ARTICLE VI.—ASSESSMENTS

SECTION 1. Expenses and assessments.—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under this order. The funds to cover such expenses shall

be acquired by the levying of assessments as hereinafter provided.

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses as the Secretary finds will be necessarily incurred by the Control Committee for the maintenance and functioning of the Control Committee during the fiscal year. Each handler's share of such expenses shall be that proportion thereof which the total quantity of prunes shipped by such handler in the current of interstate or foreign commerce during said fiscal year is of the total quantity of prunes shipped by all handlers in the current of interstate or foreign commerce during said fiscal year. Said assessment may be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to cover any later finding by the Secretary of estimated expenses or the actual expenses of the Control Committee during said fiscal year. The assessment of each handler for the fiscal year shall be due and payable at such time and shall be payable in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. At the end of each fiscal year the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above his pro rata share of the expenses, or debit such handler with the difference between his pro rata share and the amount paid by such handler. Any such debits shall become due and payable upon the demand of the Control Committee.

4. From the funds acquired pursuant to this article the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE VII.—REPORTS

SECTION 1. Reports.—Upon the request of the Control Committee, made with the approval of the Secretary, each handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its powers and duties under this order.

ARTICLE VIII.—AMENDMENTS

SECTION 1. Proposals.—Amendments to this order may be proposed, from time to time, by the Control Committee, any party subject hereto, or by the Secretary.

ARTICLE IX.—AGENTS

SECTION 1. Agents.—The Secretary may name, by a designation in writing, any person, including any officer or employee of the Government or any Bureau or Division in the Department of Agriculture, to act as his agent or representative

in connection with any of the provisions of this order, except paragraph 3, section 4, of article II.

ARTICLE X.—EFFECTIVE TIME AND TERMINATION

SECTION 1. Effective time.—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways, hereinafter specified.

Sec. 2. Termination.—1. The Secretary may at any time terminate this order.

2. The Secretary shall terminate this order whenever he finds that such termination is favored by a majority of the growers of prunes who, during said shipping season, have been engaged, in the area covered by this order, in the production of prunes for market; *Provided*, That such majority have, during such period, produced for market, more than fifty (50) percent of the total volume of prunes produced for market in the area covered by this order, but such termination shall be effective only if announced on or before April 1 of the same fiscal year.

3. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

Sec. 3. Proceedings after termination.—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct; and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article VI of this order and held by such joint trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be returned to the handlers pro rata in proportion to their contributions made thereto pursuant to this order.

2. Any person to whom funds, property or claims have been delivered by the Control Committee or its members upon

direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

ARTICLE XI.—DURATION OF IMMUNITIES

SECTION 1. Duration of immunities.—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order, and the benefits, privileges, and immunities conferred by this order upon any party, subject hereto shall cease, upon the termination of this order, as to such party except with respect to acts done under and during the existence of this order.

ARTICLE XII.—SEPARABILITY

SECTION 1. Separability.—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XIII.—DEROGATION

SECTION 1. Derogation.—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

ARTICLE XIV.—LIABILITY OF CONTROL COMMITTEE MEMBERS

SECTION 1. Liability.—No member of the Control Committee nor any employee thereof shall be held liable individually in any way whatsoever to any party hereunder or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty.

In witness whereof, M. L. Wilson, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 19th day of July 1938, and declares this order to be effective on and after 12:01 a. m., p. s. t., July 23rd, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.
(F. R. Doc. 38-2060; Filed, July 20, 1938;
9:32 a. m.)

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1938-39 FOR PUERTO RICO

Pursuant to the authority vested in me by Section 301 (e) of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine:

I

That in order to meet the requirements of subsection (e) of section 301 of the said act, there shall be carried out during the calendar year 1938, in connection with the production of the 1938-39 crop of sugarcane in Puerto Rico, except in the Island of Vieques, the following farming practices:

1. For farms on which there are growing at any time during the calendar year 1938 more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer¹ per acre of such land fertilized, which contains an average quantity of available plant food² equal to not less than the greater of either: (i) 150 pounds, or (ii) 80% of the average quantity of such fertilizer which was applied on similar land in 1936 or 1937, whichever was smaller.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of available plant food per acre of such land fertilized equal to not less than 120 pounds.

2. For farms on which there are growing at any time during the calendar year 1938 more than 100, but not more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 400 pounds.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 320 pounds.

3. For farms on which there are growing at any time during the calendar year 1938 more than 10, but not more than 100 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 250 pounds.

(b) The application to land on which a ratoon crop of sugarcane is started at

any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 200 pounds.

4. For farms on which there are growing at any time during the calendar year 1938 not more than 10 acres of sugarcane: The application during the 1938 harvest season to the land from which sugarcane is harvested, of the tops and trash cut from such sugarcane; or the application of fertilizer in the amounts, and to the types of land, set forth in 3. above.

II

That in order to meet the requirements of said subsection (e) of section 301 of the said act, there shall be carried out during the calendar year 1938, in connection with the production of the 1938-39 crop of sugarcane in the Island of Vieques, the following farming practices:

1. For farms on which there are growing at any time during the calendar year 1938 more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized which contains an average quantity of available plant food equal to not less than the greater of either: (i) 75 pounds, or (ii) 80% of the average quantity of such fertilizer which was applied on similar land in 1936 or 1937, whichever was smaller.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of available plant food per acre of such land fertilized equal to not less than 60 pounds.

2. For farms on which there are growing at any time during the calendar year 1938 more than 100, but not more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938, of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 200 pounds.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 160 pounds.

3. For farms on which there are growing at any time during the calendar year 1938 more than 10, but not more than 100 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 125 pounds.

(b) The application to land on which a ratoon crop is started at any time during 1938 of an average amount of

chemical fertilizer per acre of such land fertilized equal to not less than 100 pounds.

4. For farms on which there are growing at any time during the calendar year 1938 not more than 10 acres of sugarcane: The application during the 1938 harvest season to the land from which sugarcane was harvested, of the tops and trash cut from such sugarcane; or the application of fertilizer in the amounts, and to the types of land, set forth in 3. above.

III

That in every case in which the application of fertilizer is required as aforesaid, the number of acres on which fertilizer is to be applied in 1938 shall not be less than 100 percent of the number of acres on which sugarcane is planted in 1938, and not less than 90 percent of the number of acres on which a ratoon crop of sugarcane is started in 1938.

Done at Washington, D. C., this 20th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38-2096; Filed, July 20, 1938;
12:17 p. m.]

AMENDMENT TO DETERMINATION OF NORMAL YIELD OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE AND ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE MAINLAND CANE SUGAR AREA

Pursuant to the provisions of section 303 of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that paragraph 2 of the "Determination of (1) Normal Yield of Commercially Recoverable Sugar Per Acre and (2) Eligibility for Payment with Respect to Abandonment and Crop Deficiency for Farms in the Mainland Cane Sugar Area, Pursuant to Section 303 of the Sugar Act of 1937," issued April 15, 1938,³ be and the same is hereby amended to include in district IV St. Bernard, Jefferson, and Plaquemines parishes.

Done at Washington, D. C., this 20th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38-2097; Filed, July 20, 1938;
12:33 p. m.]

BUREAU OF AGRICULTURAL ECONOMICS

DELEGATION OF AUTHORITY FOR THE LAND UTILIZATION PROGRAM

JUNE 16, 1938.

1. Purpose.—(a) The purpose of this instruction is to designate the various

¹ 3 F. R. 914 DL.

² "Chemical fertilizer" as used herein means commercial chemical fertilizer not less than 15 percent of the gross weight of which consists of plant food.

³ "Plant food" as used herein means the aggregate amount of nitrogen, available phosphoric acid and water soluble potash.

Bureau officials who will exercise the functions delegated to the Chief or Acting Chief of Bureau by the Secretary in his Memorandum No. 75.¹

2. The assistant chief of bureau for land utilization will.—(a) Execute easements, leases, licenses, and other forms of contracts permitting the construction and maintenance of telephone lines, pipe lines, roads, irrigation and drainage ditches, etc., (but not those power lines licensed for which are required by law to be granted by the Federal Power Commission), across project areas when such construction will not materially interfere with the purposes of the project.

3. The business manager will.—(a) Execute legal documents for the land utilization programs under authorities which have been or are in the future delegated to him.

4. The leader of the division of project organization will.—(a) Under policies established by the Secretary, or by the Chief of Bureau or by the Assistant Chief of Bureau for Land Utilization execute leases, licenses, permits, agreements and other forms of contracts permitting the use of lands acquired, when consistent with the purposes of the project, for cropping, grazing, building occupancy, recreational and incidental purposes, provided they do not extend for more than ten years.

(b) Execute life leases to the grantors or occupants of *land acquired*, provided:

- I. Their occupancy and use will not interfere with the purposes of the project.
- II. The lessees are 60 years of age or over.

III. The area to be used and occupied by the lessees does not consist of more than 15 acres.

IV. Life leases which do not conform to these requirements will be executed by the Assistant Chief of Bureau for Land Utilization.

5. The leader of the division of land acquisition will.—(a) Exercise options to purchase, and execute easements, leases, licenses, and other forms of contracts for the acquisition of real property or any interest therein, subject to any reservations or exceptions which will not interfere with the use of the property for the purposes of the project, as approved. Any land acquisition contract that exceeds the appraisal price by more than ten percent, or if less than ten percent by more than \$1,000, or any such contract involving a purchase price of \$50,000 or over even though it does not exceed the appraisal price, will be approved by the Assistant Chief of Bureau for Land Utilization prior to acceptance. The determination as to whether or not the reservations or exceptions will interfere with the purposes of the project will be made in cooperation with the Leader of the Division of Project Organization.

(b) Execute life leases to the grantors or occupants of lands being acquired *prior to or at the time the lands are acquired*. Such life leases will be executed with the concurrence of the Leader of the Division of Project Organization and in conformity with the minimum requirements outlined in paragraph 4-b above for the execution of life leases after lands are acquired.

6. Regional directors will.—(a) File in the name of the United States, in accordance with the law of the state involved, applications for water rights covering waters to be impounded, impeded, or diverted in their flow by construction work contemplated in connection with the development of a project. No applications shall be filed which require the payment of filing fees or other charges by the Government until it has been definitely determined that funds are available for the payment of such charges. The authority hereby granted may be delegated in writing to project managers.

(b) Grant temporary use permits (one year or less) such as temporary cropping agreements, temporary grazing agreements, temporary building occupancy agreements, and temporary recreational and incidental use permits. This authority will be exercised in accordance with instructions issued from Washington and may be redelegated in writing to project managers. All forms used for granting such temporary uses for the new program shall be approved by the Leader of the Division of Project Organization.

(c) Determine whether public buildings, within the meaning of section 355 of the Revised Statutes, will or will not be constructed upon individual tracts of land under contract of purchase and execute statements to this effect which are necessary for expediting land acquisition and title clearance. This authority may be delegated in writing to project managers.

7. Scope of Instruction.—(a) The officials authorized by this instruction to execute various forms of contracts are also authorized to exercise all powers to revoke, terminate, or cancel (cancel land acquisition contracts by mutual agreement) the respective contracts which are exercisable either by the terms of the contracts themselves or by operation of law.

(b) The authorities are applicable to the land utilization program authorized by Title III and related sections of the Bankhead-Jones Farm Tenant Act (new program) and to the land utilization program initiated by the Farm Security Administration (old program).

(c) "Regional directors" means both the regional directors appointed by the Bureau for the land utilization program and the officials acting in charge of regions for that program.

(d) In the absence of any official authorized to take actions, the person

acting for him in his absence may exercise the applicable authority.

(e) This instruction does not rescind the authority to accept options which the Chief of Bureau granted to officials in the Division of Land Acquisition by a memorandum dated March 15, 1938. However, such authority will, hereafter, be exercised in accordance with paragraph 5-a of this instruction.

(f) The authorities will be exercised in accordance with the restrictions contained in Secretary's Memorandum No. 756 and such additional restrictions as are contained herein.

(g) All forms for leases, licenses, easements, agreements, use permits, etc., shall be submitted to the office of the Solicitor for approval.

[SEAL]

C. W. KITCHEN,
Acting Chief of Bureau.

[F. R. Doc. 38-2075; Filed, July 2, 1938;
12:44 p. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

BOND OF INDEMNITY FOR LOST CHECKS

AMENDING THE TREASURY CHAPTER OF THE MANUAL; REVOKING SEC. 702 AND AMEND- ING SEC. 701

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 701 of the Treasury Chapter of the Consolidated Manual is amended to read as follows, and Section 702 of the Treasury Chapter of the Consolidated Manual is hereby revoked:

SECTION 701. When it is desired to stop payment of any check drawn on the Treasurer of the United States because of failure of the payee to receive same, or for any other reason, the State, Division, District, or Territorial Manager, or Regional Treasurer shall promptly notify the Treasurer of the Corporation, describing the check, stating the name of the officer or agent of the Home Owners' Loan Corporation by whom the check was drawn, giving, if possible, its payee, date, number, symbol number, amount, reason for requesting that payment be stopped, whether the check was endorsed, and if so, a description of the endorsements.

Upon determination by the Treasurer that a check is outstanding, payment will be stopped and, in appropriate cases, a bond of indemnity and affidavit will be transmitted for execution by the claimant. Upon satisfactory execution of a bond of indemnity and affidavit, or, in appropriate cases, of an application and affidavit, and the approval of such bond of indemnity and

¹ 3 F. R. 1174 DL
No. 141—2

FEDERAL REGISTER, Thursday, July 21, 1938

affidavit, or application and affidavit, by the General Counsel as to legal sufficiency and conformance with regulations governing the issuance of duplicate checks, the Treasurer is authorized to issue and sign duplicate checks upon any account of the Corporation now or hereafter established; provided that no duplicate check shall be issued until after the expiration of thirty (30) days from the date of the original check, except as hereinafter provided, or after the close of the fiscal year following the fiscal year in which the original check was issued. The signing of the duplicate check by the Treasurer shall constitute approval of the issuance of the duplicate check. The requirement of a bond of indemnity and affidavit may be waived, in the discretion of the Treasurer, in any of the following classes of cases:

(a) If the Treasurer is satisfied that the loss, theft, destruction, mutilation, or defacement, as the case may be, occurred without fault of the owner or holder and while the check was in the custody or control of the Home Owners' Loan Corporation (not including the Postal Service when acting solely in its capacity as the public carrier of the mails), or of a person thereunto duly authorized as lawful agent of the Home Owners' Loan Corporation;

(b) If substantially the entire check is presented and surrendered by the owner or holder and the Treasurer is satisfied as to the identity of the check presented, and that any missing portions are not sufficient to form the basis of a valid claim against the Home Owners' Loan Corporation or the United States;

(c) If the Treasurer is satisfied that the original check is not negotiable and cannot be made the basis of a valid claim against the Home Owners' Loan Corporation or the United States.

(d) If the amount of the check is less than \$50 and the Treasurer is satisfied that the giving of a bond of indemnity would be an undue hardship to the owner or holder, it being ordinarily assumed that the giving of a bond of indemnity would constitute an undue hardship in those instances where the amount of the check is not over \$20 and the original check has not been received by the payee; and

(e) If the owner or holder is a State or political subdivision thereof, a corporation the whole of whose capital is owned by the United States, a foreign government, or a Federal Reserve Bank.

The General Manager, in his discretion, may waive the requirement that no duplicate check be issued until the expiration of thirty (30) days, and may, in event the payee refuses to execute a bond of indemnity or affidavit and in his opinion it is to the best interests of the Corporation that a duplicate check be issued, waive the requirement of the bond of indemnity and affidavits.

Adopted by the Federal Home Loan Bank Board on July 18, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2085; Filed, July 20, 1938;
10:04 a. m.]

AMENDING THE TREASURY CHAPTER OF THE MANUAL

Revoking Section 7.03 (a) of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations

REVOKING SEC. 703 OF THE CONSOLIDATED MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 7.03 (a) of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Section 703 (a) of Chapter VII of the Consolidated Manual is hereby revoked effective June 30, 1938.

Adopted July 18, 1938, by the Federal Home Loan Bank Board.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2087; Filed, July 20, 1938;
10:04 a. m.]

AUTHORITY OF CONTRACT BROKERS TO INCUR CHARGES AND TO MAKE PAYMENT

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128-129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by Sub-sections a and k of Section 4 of said Act as amended, the fourth paragraph of Section 314 of Chapter III of the Consolidated Manual be amended to read as follows:

Contract Management Brokers and Contract Sales Brokers may incur charges in behalf of the Corporation in the performance of any of the functions or duties required or authorized by the regulations, provided that if the amount of such charges exceeds \$25.00 on any particular property containing not more than one unit or \$50.00 on any property containing more than one unit during any monthly accounting period the approval of the State or District Manager shall first be obtained, except in any cases requiring emergency repairs for which the broker may incur charges not exceeding \$100.00. The broker is authorized to pay such charges incurred out of the rental income of properties listed with him. If the funds in possession of the broker from any

particular property are not of sufficient amount to pay the charges or bills incurred, then same may be paid by the broker out of the income from other properties assigned to him for management or may be paid by voucher through the regular procedure provided therefor. An accounting shall be made by such brokers for each and every item of expense incurred hereunder and payment therefor shall be supported by proper receipts and releases, except as provided elsewhere in the regulations. All expenditures authorized hereunder shall be made under such instructions and procedure as the Deputy General Manager in Charge of Property Management, subject to the approval of the General Manager and General Counsel, may prescribe.

Be it further resolved, That the provisions of this resolution shall be effective August 1, 1938.

Adopted by the Federal Home Loan Bank Board on July 19, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2086; Filed, July 20, 1938;
10:04 a. m.]

**TITLE 26—INTERNAL REVENUE
BUREAU OF INTERNAL REVENUE**

[T. D. 4830]

GIFT TAX

REGULATIONS 79, AMENDED TO ACCORD WITH PROVISIONS OF REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

To conform with the provisions, in so far as they relate to the gift tax, of Titles II and V of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), Regulations 79 (1936 Edition), approved February 26, 1936, are hereby amended as follows:

The following quotation of section 505 of the Revenue Act of 1938 is inserted immediately preceding article 9:

SEC. 505, Revenue Act of 1938. *Computation of net gifts.*—

(a) Section 504 (b) of the Revenue Act of 1932, relating to the computation of net gifts, is amended to read as follows:

"(b) *Gifts less than \$4,000.*—In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year, the first \$4,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year."

(b) The amendment made by subsection (a) of this section shall be applied in computing the tax for the calendar year 1939 and each calendar year thereafter (but not the tax for the calendar year 1938 or a previous calendar year), but such amendment shall not be applied in any computations in respect of the calendar year 1938 and previous calendar years for the purpose of computing the tax for the calendar year 1939 or any calendar year thereafter.

Article 10 is amended to read as follows:

"ART. 10. Total amount of gifts.—Except with respect to any gift in trust or of a future interest in property, the first \$4,000 of gifts made to any one donee during the calendar year 1939 or during any calendar year thereafter shall be excluded in determining the total amount of gifts for such calendar year. Except with respect to any gift of a future interest in property, the first \$5,000 of gifts made to any one donee during the calendar year 1938 or during any calendar year prior thereto shall be excluded in determining the total amount of gifts for such calendar year. The entire value of any gift made by a transfer in trust after December 31, 1938, and the entire value of any gift of a future interest in property, must be included in the total amount of gifts for the calendar year in which such a gift is made."

The first sentence of article 20, which reads—

"Any individual resident or citizen of the United States who within that portion of the calendar year 1932 subsequent to June 6, 1932, or within any calendar year thereafter, made a transfer by gift to any one donee which exceeded \$5,000 in value (or regardless of value if the gift was of a future interest) must file a gift tax return on Form 709."

is amended to read as follows:

"Any individual resident or citizen of the United States who within the calendar year 1939, or within any calendar year thereafter, makes a transfer or transfers by gift to any one donee of a value or total value of more than \$4,000 (or regardless of value in the case of a gift in trust or of a future interest in property), must file a gift tax return for such year on Form 709. In the case of a transfer or transfers by gift to any one donee of a value or total value of more than \$5,000 (or regardless of value if the gift was of a future interest in property), made by any individual resident or citizen of the United States during the portion of the calendar year 1932 subsequent to June 6, 1932, or during any calendar year thereafter prior to the calendar year 1939, the filing of a gift tax return on Form 709 by the donor for such year is required."

The first sentence of article 21, which reads—

"All donees and trustees (except such organizations, etc., referred to in section 505 and article 13) receiving property transferred by gift in any one calendar year, shall file a notice on Form 710, unless the value of the gift, or the aggregate value of all the gifts, to the donee or to any one of the beneficiaries of the trust is \$5,000, or less, and the subject of the gift is not a future interest in property."

is amended to read as follows:

"An information return or notice on Form 710 must be filed by every donee or trustee (except in the case of a gift for a public, charitable, etc. purpose as described in article 13) to whom is transferred in any one calendar year property by gift for which, as set forth in article 20, the donor is required to file a gift tax return."

The second sentence of article 23, which reads—

"The return must be filed in duplicate and under oath, and therein must be listed and set forth all gifts (other than future interests in property) made by the donor during the calendar year to any one person to the extent that the aggregate value thereof exceeds \$5,000 and all gifts of future interests in property without regard to the value thereof."

is amended to read as follows:

"The return must be filed in duplicate and under oath. If the return is filed for the calendar year 1939, or for any calendar year thereafter, it must set forth every transfer by gift to any one donee during such calendar year which singly or in the aggregate exceeds \$4,000 in value (or regardless of value in the case of a gift in trust or of a future interest in property). A return filed for the portion of the calendar year 1932 subsequent to June 6, 1932, or for any calendar year thereafter prior to the calendar year 1939, must set forth every transfer by gift to any one donee during such calendar year which singly or in the aggregate exceeds \$5,000 in value (or regardless of value in the case of a gift of a future interest in property)."

The seventh, eighth, ninth and tenth sentences of the first paragraph of article 31, which read—

"A sworn statement of assets and liabilities of the donor is required and should accompany the application. An itemized statement showing all receipts and disbursements for each of the three months preceding the due date of the tax shall also be submitted. The application with the evidence must be filed with the collector, who will at once transmit it to the Commissioner with his recommendations as to the extension. The Commissioner will not consider an application for an extension of time unless such application is made on or before the due date of the tax for which the extension is desired."

are amended to read as follows:

"A sworn statement of assets and liabilities of the donor and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the tax are required and should accompany the application.

The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the donor will be notified. The Commissioner will not consider an application for such an extension unless request therefor is made to the collector on or before the due date. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension."

The second and third paragraphs of article 31, which read—

"As a condition to the granting of such an extension, the Commissioner may require the donor to furnish a bond in an amount not exceeding double the amount of the tax. If a bond is required, it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required. The bond, if required, shall be conditioned upon the payment of the tax and interest assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety upon Federal bonds and shall be subject to the approval of the Commissioner. In lieu of such surety, the bond may be secured by the deposit of Liberty bonds, other bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of H. R. 4304, Public, No. 3, Seventy-fourth Congress.)"

"If an extension of time for payment of the tax is granted, the amount, time for payment of which is so extended, shall be paid on or before the expiration of the period of extension, together with interest at the rate of 6 per cent per annum on such amount from the date when the payment should have been made if no extension had been granted until the expiration of the period of the extension. (See section 521 and article 54.)"

are amended to read as follows:

"As a condition to the granting of such an extension, the Commissioner will usually require the donor to furnish a bond in an amount not exceeding double the amount for which the extension is desired, or to furnish other security satisfactory to the Commissioner for the

payment of the liability on or before the date prescribed for the payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the amount for which the extension is granted, together with interest and additional amounts assessed in connection therewith, in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 20, U. S. C., 1934 edition, Sup. II, Title 6, section 15.)

"The amount for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the donor from paying the entire amount of interest provided for in the extension."

Immediately preceding article 41, there is inserted a partial quotation of section 816 of the Revenue Act of 1938, as follows:

Sec. 816. Revenue Act of 1938. Extension of time for payment of deficiencies approved by Commissioner.—

The requirement of * * * section 513 (i) of the Revenue Act of 1932 * * * of approval by the Secretary of extension of time for payment of deficiency in * * * gift tax shall not apply after thirty days after the date of the enactment of this Act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

Article 44 is amended to read as follows:

"ART. 44. Extension of time for payment of deficiencies.—If it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for payment thereof would result in undue hardship to the donor, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period of time not in excess of 18 months and in exceptional cases for a further period not in excess of 12 months. The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to

the donor. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the donor from making payment of the deficiency at the date prescribed for payment. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in undue hardship. The Act provides that no extension will be granted where the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade tax.

"An application for an extension of time for the payment of the deficiency should be made under oath and must be accompanied or supported by evidence showing the undue hardship that would result to the donor if the extension were refused. A sworn statement of assets and liabilities of the donor and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the deficiency are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendation as to the extension. When it is received by the Commissioner, it will be examined and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the donor will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector. If the donor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension.

"As a condition to the granting of such an extension, the Commissioner will usually require the donor to furnish a bond in an amount not exceeding double the amount of the deficiency, or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date prescribed for the payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obliga-

tions of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 20, U. S. C., 1934 edition, Sup. II, Title 6, section 15.)

"The amount for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the donor from paying the entire amount of interest provided for in the extension."

Immediately preceding article 45 there is inserted a partial quotation of section 819 of the Revenue Act of 1938, as follows:

*Sec. 819. Revenue Act of 1938. Abatement of jeopardy assessment. * * **

(c) Section 514 (c) of the Revenue Act of 1932 is amended to read as follows:

"(c) Amount assessable before decision of Board.—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of section 513 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith."

*(e) * * * section 514 (f) of the Revenue Act of 1932 * * * [18] amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."*

(f) The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this Act.

The second paragraph of article 45 is amended by adding the following sentence at the end thereof:

"If the jeopardy assessment is made after the date of the enactment of the Revenue Act of 1938, the Commissioner may, at any time before the decision of the Board is rendered, abate the assessment or any unpaid portion thereof, to the extent that he believes it to be excessive in amount."

The third paragraph of article 45 is amended by adding the following sentence at the end thereof:

"If the Commissioner believes that the amount of the jeopardy assessment is excessive and abates a portion thereof

before the decision of the Board is rendered, the amount of the bond will be proportionately reduced at the request of the donor."

Immediately preceding article 57 there is inserted a quotation of section 821 of the Revenue Act of 1938, as follows:

Sec. 821. Revenue Act of 1938. Interest accruing after October 24, 1933, and before August 30, 1935, on delinquent income, estate, and gift taxes.

Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. Any such interest accruing during such period which has been collected prior to the date of the enactment of this Act in excess of such rate shall be credited or refunded to the taxpayer, if claim therefor is filed within six months after the date of the enactment of this Act. No interest shall be allowed or paid on any such credit or refund.

The date "August 31, 1935", appearing in the parenthetical exception at the end of each paragraph of article 57, is changed to "October 25, 1933."

Immediately preceding article 59 there is inserted a quotation of section 815 of the Revenue Act of 1938, as follows:

Sec. 815. Revenue Act of 1938. Compromise before suit.—

Section 3229 of the Revised Statutes is amended by striking out "with the advice and consent of the Secretary of the Treasury" and inserting in lieu thereof "with the approval of the Secretary of the Treasury, or of the Under Secretary of the Treasury, or of an Assistant Secretary of the Treasury."

Immediately preceding article 62 there are inserted quotations of section 809 (b) and section 821 of the Revenue Act of 1938, as follows:

Sec. 809. Revenue Act of 1938. Overpayments found by Board of Tax Appeals. • • •

(b) The last sentence of section 528 (d) of the Revenue Act of 1932, as amended, is amended to read as follows: "No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency; except that where the decision of the Board is rendered before the expiration of thirty days after the date of the enactment of the Revenue Act of 1938, the credit or refund may be made of any portion paid after the mailing of the notice of deficiency."

Sec. 821. Revenue Act of 1938. Interest accruing after October 24, 1933, and before August 30, 1935, on delinquent income, estate, and gift taxes.

Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. Any such interest accruing during such period which has been collected prior to the date of the enactment of this Act in excess of such rate shall be credited or refunded to the taxpayer, if claim therefor is filed within six months after the date of the enactment of this Act. No interest shall be allowed or paid on any such credit or refund.

The caption and first paragraph of article 62, which read—

"ART. 62. Authority for abatement, credit, and refund of tax.—Authority for the credit and refund of any overpay-

ment of the tax is contained in section 528."

are changed to read—

"ART. 62. Authority for abatement, credit, or refund.—Authority for the credit or refund of an overpayment is contained in section 528, as amended, and section 821 of the Revenue Act of 1938. As to the abatement of a jeopardy assessment by the Commissioner before the Board of Tax Appeals renders a decision, see article 45."

Article 63 is amended by adding at the end thereof the following sentence:

"No interest is allowable on any credit or refund, authorized by section 821 of the Revenue Act of 1938, of excess interest collected on delinquent tax."

The second paragraph of article 65 is amended by adding at the end thereof the following sentence:

"A claim for refund or credit of any interest in excess of 6 per cent per annum accruing after October 24, 1933, and before August 30, 1935, on delinquent gift taxes, which excess was collected prior to May 28, 1938, must be filed within six months after May 28, 1938, pursuant to the requirement of section 821 of the Revenue Act of 1938."

The first paragraph of article 68 is amended by changing the words "Except as provided in (b) of this article" to "Except as provided in (b) or (c) of this article."

Paragraph (1) of subdivision (b) of article 68, which reads—

"(1) If the Board finds that the donor has overpaid his tax for the year to which the notice of deficiency relates, and the decision of the Board as to the amount overpaid has become final (see section 1005 of the Revenue Act of 1926), and further determines as part of its decision that any portion of the overpayment was made within three years before the filing of the refund claim or the filing of the petition, whichever is earlier, the amount of such portion of the overpayment shall be credited or refunded. The portion of the overpayment made within such period will be credited or refunded, even though the Board has not determined as part of its decision that the overpayment was so made, where a hearing upon the petition was held by the Board prior to the expiration of 30 days after the date of the enactment of the Revenue Act of 1934."

is amended to read as follows:

"(1) If the Board finds that the tax has been overpaid for the year to which the notice of the deficiency relates, and the decision of the Board as to the amount overpaid has become final (see section 1005 of the Revenue Act of 1926), and the Board determines as a part of its decision that any portion of the overpayment was made within three years before the filing of the claim or the filing of the

petition, whichever is earlier, the amount of such portion of the overpayment will be credited or refunded. Or if the Board determines as part of its decision that any portion of the overpayment was made after the mailing of the notice of the deficiency, such portion will be credited or refunded. The portion of the overpayment, if any, made after the mailing of the notice of the deficiency will be credited or refunded even though the Board has not determined as part of its decision that the overpayment was so made, if the decision of the Board is rendered before the expiration of 30 days after the date of the enactment of the Revenue Act of 1938."

Article 68 is further amended by adding the following paragraph at the end thereof:

"(c) A credit or refund of the excess of any interest over 6 per cent per annum accruing between October 24, 1933, and August 30, 1935, on delinquent tax, where such excess was collected prior to May 28, 1938, is prohibited unless claim therefor is filed within six months after May 28, 1938."

Immediately preceding article 71 there are inserted quotations of sections 801 and 802 of the Revenue Act of 1938, as follows:

Sec. 801. Revenue Act of 1938. Closing agreements as to future tax liability.—

Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement."

Sec. 802. Revenue Act of 1938. Approval of closing agreements.—

Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary, or the Under Secretary," and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary."

The first three sentences of article 71, which read—

"Closing agreements provided for in section 606 of the Revenue Act of 1928 may relate to any taxable period ending prior to the date of the agreement. Such an agreement may be executed even though under such agreement the donor is not liable for any tax for the period. The matter agreed upon may relate to the total tax liability of the donor or it may relate to one or more separate items affecting the tax liability of the donor." are amended to read as follows:

"Closing agreements provided for in section 606 of the Revenue Act of 1928, as amended, may relate to the total tax liability of the donor, or to one or more separate items affecting such liability."

Immediately preceding article 73 there is inserted a quotation of section 806 of the Revenue Act of 1938, as follows:

Sec. 806. Revenue Act of 1938. Administration of oaths or affirmations.—

Any oath or affirmation required or authorized by any internal-revenue law or by any regulations made under authority thereof or may be administered by any person authorized to administer oaths for general purposes by the law of the United States,

or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This section shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

This Treasury Decision is issued under authority prescribed by section 530 of the Revenue Act of 1932.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.
Approved, July 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the
Treasury.

[P.R. Doc. 38-2076; Filed, July 19, 1938;
2:20 p.m.]

[T.D. 4831]

ESTATE TAX

**REGULATIONS 80, AMENDED TO ACCORD WITH
PROVISIONS OF REVENUE ACT OF 1938**

To Collectors of Internal Revenue and
Others Concerned:

To conform with the provisions, in so far as they relate to the estate tax, of Titles II and V of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), Regulations 80 (1937 edition),¹ approved October 26, 1937, are amended as follows:

Immediately preceding article 63 the following is inserted:

Sec. 501. Revenue Act of 1938.

Section 304 (b) of the Revenue Act of 1926, as amended (relating to the amount of gross estate requiring the filing of a return), is amended by striking out "\$100,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 303 (a) (4)."

Sec. 502. Revenue Act of 1938.

Section 403 of the Revenue Act of 1932, as amended, relating to returns of the additional estate tax, is amended by striking out "\$40,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 401 (c)."

Immediately preceding articles 76 and 99 the following is inserted:

Sec. 801. Revenue Act of 1938.

Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement."

Sec. 802. Revenue Act of 1938.

Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary or the Under Secretary," and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary."

The fifth paragraph of article 76 is amended by inserting "or an Assistant Secretary," after the words "Under Secretary," and by inserting "as amended," after the comma following the year "1928."

Immediately preceding article 77, the following is inserted:

Sec. 503. Revenue Act of 1938.

Section 305 (b) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part

of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. * * *

Sec. 819 (d). Revenue Act of 1938.

Section 312 (c) of the Revenue Act of 1926 is amended to read as follows:

"(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the executor, despite the provisions of subdivision (f) of section 308 and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith."

Sec. 819 (e). Revenue Act of 1938.

Section * * * 312 (f) of the Revenue Act of 1926, * * * [is] amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."

Sec. 819 (f). Revenue Act of 1938.

The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this Act.

The first paragraph of article 77 is amended by adding the following sentence at the end thereof:

"If the jeopardy assessment is made after the date of the enactment of the Revenue Act of 1938, the Commissioner may, at any time before the decision of the Board is rendered, abate the assessment or any unpaid portion thereof, to the extent that he believes it to be excessive in amount."

The first sentence of the third paragraph of article 77 is amended by adding the words "and not abated" after the word "assessment."

The last sentence of the fourth paragraph of article 77, which reads—

"If an extension of time for payment of the tax is granted in accordance with section 305 (b) or section 308 (1), as amended by section 808 of the Revenue Act of 1932, the period within which assessment is required to be made is extended by the time covered by such extension."

is amended to read—

"If an extension of time for payment of the tax is granted in accordance with section 305 (b), as amended by section 808 (a) of the Revenue Act of 1932 and section 503 of the Revenue Act of 1938,

or in accordance with section 308 (1), as amended by section 808 (b) of the Revenue Act of 1932 and section 818 of the Revenue Act of 1938, the period within which assessment is required to be made is extended by the time covered by such extension."

Immediately preceding article 82, the following is inserted:

Sec. 503. Revenue Act of 1938.

Section 305 (b) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension."

Sec. 816. Revenue Act of 1938.

The requirement of * * * section 308 (1) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in * * * estate * * * tax shall not apply after thirty days after the date of the enactment of this Act but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

Article 82 (a) is amended to read as follows:

Art. 82. (a) Extension of time for payment of tax shown on return.—In any case in which the Commissioner finds that payment, on the due date, of any part of the tax shown on the return would impose undue hardship upon the estate, he may extend the time for payment thereof for a period or periods not to exceed in all ten years from the due date.

The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the estate. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the tax at the due date. If a market exists, a sale of property at the current market price is not ordinarily considered as resulting in an undue hardship.

An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate if the requested extension were refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined

¹ 2 F.R. 2324 (2707 DI).

ined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The Commissioner will not consider an application for such an extension unless request therefor is made to the collector on or before the due date. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension. No single extension for more than one year will be granted. The granting of an extension of time for paying the tax is discretionary with the Commissioner, and such authority will be exercised under such conditions as he may deem advisable.

"If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension.

"The amount of the tax for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the executor from paying the entire amount of interest provided for in the extension.

"The granting of such an extension will not relieve the executor from the duty of filing the return on or before the date fixed by the regulations, nor will it operate to prevent the running of interest. (See article 84.) An extension of time to pay the tax may extend the period within which taxes allowed as a credit by section 301 (c) are required to be paid and the credit therefor claimed. (See article 9 (b).) The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension. (See articles 77 and 105.)"

Article 83 is amended to read as follows:

"ART. 83. Extension of time for payment of deficiency tax.—If it is shown to the satisfaction of the Commissioner that the payment of the deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period not to exceed in all four years from the date prescribed for the payment of the deficiency.

"The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the estate. It must appear that substantial financial loss, for example, due to the sale of prop-

erty at a sacrifice price, will result to the estate from making payment of the deficiency at the due date. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

"An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate were the requested extension refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension. No single extension for more than one year will be granted. The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension. (See articles 77 and 105.)"

"As a condition to the granting of such an extension, the Commissioner will usually require the executor to furnish a bond in an amount not exceeding double the amount of the deficiency, or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date prescribed for payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the executor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in

their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 20, U. S. C., 1934 edition, Sup. II, Title 6, section 15.)

"The amount of the deficiency for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the executor from paying the entire amount of interest provided for in the extension.

"The granting of such an extension will not operate to prevent the running of interest. (See article 85.) An extension of time to pay the deficiency may extend the period within which taxes allowed as a credit by section 301 (c) are required to be paid and the credit therefor claimed. (See article 9 (b).) The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension. (See articles 77 and 105.)"

Immediately preceding article 84, the following is inserted:

Sec. 504. Revenue Act of 1938.—

Section 305 (c) of the Revenue Act of 1926, as amended, is amended by inserting at the end thereof the following new sentence: "In the case of any such extension granted after March 31, 1938, the rate of interest shall be 4 per centum per annum.

Sec. 816. Revenue Act of 1938.—

The requirement of * * * section 308 (1) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in * * * estate * * * tax shall not apply after thirty days after the date of the enactment of this Act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

Sec. 821. Revenue Act of 1938.—

Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. * * *

The first paragraph of article 84 (a) is amended by changing the date "August 31, 1935", appearing in the parenthetical exception at the end thereof, to "October 25, 1933".

The first sentence of the second paragraph of article 84 (a), which reads—

"If an extension of time has been granted for paying any portion of the tax shown on the executor's return, in accordance with article 82 (a), interest accrues thereon at the rate of 6 per cent per annum from the expiration of 18 months after the decedent's death to the expiration of the period of the extension."

is amended to read as follows:

"If the time for paying any portion of the tax shown on the executor's return was extended under the provisions

of article 82 (a) and such extension of time was granted prior to April 1, 1938, interest accrues on such portion of the tax at the rate of 6 per cent per annum from the expiration of 18 months after the decedent's death to the expiration of the period of the extension. If, however, the extension of time was granted after March 31, 1938, interest accrues at the rate of 4 per cent per annum. The lower rate of interest does not apply retroactively to any period of extension as may have been granted in the same case prior to April 1, 1938."

and such paragraph is further amended by changing the date "August 31, 1935", appearing in the parenthetical exception at the end thereof, to "October 25, 1933."

The third paragraph of article 84 (a) is amended by inserting "4 or" immediately after the word "at" in the first sentence.

The second, third and fifth paragraphs of article 85 are amended by changing the date "August 31, 1935", appearing in the parenthetical exceptions therein, to "October 25, 1933".

Immediately preceding article 95 the following is inserted:

Sec. 819 (e). Revenue Act of 1938.—
Section * * * 312 (f) of the Revenue Act of 1926, * * * [is] amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."

Sec. 819 (f). Revenue Act of 1938.—
The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this Act.

Immediately preceding article 99 the following is inserted:

Sec. 809.—
* * * *
(e) The last sentence of section 319 (c) of the Revenue Act of 1926, as amended, is amended to read as follows: "No such refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within four years (or, in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency; except that where the decision of the Board is rendered before the expiration of thirty days after the date of the enactment of the Revenue Act of 1938, the credit or refund may be made of any portion paid after the mailing of the notice of deficiency."

Sec. 821. Revenue Act of 1938.—
Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. Any such interest accruing during such period which has been collected prior to the date of the enactment of this Act in excess of such rate shall be credited or refunded to the taxpayer, if claim therefor is filed within six months after the date of the enactment of this Act. No interest shall be allowed or paid on any such credit or refund.

Article 99 is amended by inserting immediately after the third paragraph a new paragraph reading as follows:

"Claims made under the provisions of section 821 of the Revenue Act of 1938 for the refund of interest accruing after October 24, 1933, and before August 30, 1935, at a rate in excess of 6 per cent per annum upon delinquent estate taxes and paid prior to May 28, 1938 (the date of the enactment of the Revenue Act of 1938) must be filed within six months after the date of such enactment."

Article 99 is further amended by inserting immediately after the clause "whichever is earlier," appearing in the first sentence of the original fourth paragraph, an additional clause reading—

"or that such portion was paid after the mailing of the notice of deficiency."

and by substituting for the last sentence reading—

"The portion of the overpayment made within such period will be refunded, even though the Board has not determined as part of its decision that the overpayment was so made, if a hearing upon the petition was held by the Board prior to the expiration of 30 days after the date of the enactment of the Revenue Act of 1934."

a new sentence reading as follows:

"The portion of the overpayment, if any, made after the mailing of the notice of deficiency will be refunded, even though the Board has not determined as part of its decision that the overpayment was so made, if the decision of the Board is rendered before the expiration of 30 days after the date of the enactment of the Revenue Act of 1938."

Article 100 is amended by adding the following new sentence at the end thereof:

"No interest shall be allowed in respect of any refund of excess interest claimed and allowed under the provisions of section 821 of the Revenue Act of 1938."

Immediately preceding article 101 the following is inserted:

Sec. 815. Revenue Act of 1938.—
Section 3229 of the Revised Statutes is amended by striking out "with the advice and consent of the Secretary of the Treasury" and inserting in lieu thereof "with the approval of the Secretary of the Treasury, or of the Under Secretary of the Treasury, or of an Assistant Secretary of the Treasury".

Immediately preceding article 106 the following is inserted:

Sec. 806. Revenue Act of 1938.—
Any oath or affirmation required or authorized by any internal-revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This section shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

This Treasury Decision is issued under authority prescribed in section 1101 of

the Revenue Act of 1926 and section 403 of the Revenue Act of 1932, as amended.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2077; Filed, July 19, 1938;
2:20 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

OFFICE OF THE SECRETARY NEWLY-MINED DOMESTIC SILVER

JULY 11, 1938.

Memorandum for the President:

The Newly-Mined Domestic Silver Proclamation of December 30, 1937, modifying the Proclamation of December 21, 1933, as modified, provides that:

" * * * the said Proclamation of the twenty-first day of December, 1933, as heretofore and hereby modified shall remain in force and effect until the 31st day of December, 1938 unless repealed or further modified by Act of Congress or by subsequent Proclamation."

As you know, in the normal course a considerable period of time elapses between the date silver is mined and the date when the refining of the silver has been completed and the silver is delivered to a Mint. Accordingly, a question has arisen as to whether domestic silver mined prior to midnight, December 31, 1938, may be received by the mints after that date under said Proclamation, as modified.

I am advised by the General Counsel of the Treasury that in his opinion the mints may continue after December 31, 1938, to receive under said Proclamation, as modified, domestic silver mined prior to midnight, December 31, 1938, and otherwise complying with the Proclamation. I am in accord with such opinion. Accordingly, if you approve, the mints will be instructed that they may continue after December 31, 1938, to accept under said Proclamation, as modified, newly-mined domestic silver mined prior to midnight of December 31, 1938. This would be consistent with the action taken pursuant to your approval given under date of September 14, 1937 when the same problem was presented, the basic proclamation as then modified being due to expire on December 31, 1937.

If you approve of the foregoing, I should appreciate it if you would so indicate below.

[SEAL] H. MORGENTHAU, Jr.
Secretary of the Treasury.

Approved July 16, 1938.

FRANKLIN D ROOSEVELT,
The White House.

[F. R. Doc. 38-2099; Filed, July 20, 1938;
12:42 p. m.]

TITLE 43—PUBLIC LANDS
DIVISION OF GRAZING

**ORDER ESTABLISHING GRAZING DISTRICT
 NO. 3 IN THE STATE OF ARIZONA**

JULY 14, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Arizona Grazing District No. 3 is hereby established, the exterior boundaries of which shall include the following-described lands:

ARIZONA

Gila and Salt River Meridian

T. 1 N., Rs. 5 to 7 W., inclusive, all;
 Tps. 1 and 2 N., Rs. 8 and 9 W., all;
 T. 3 N., R. 9 W., secs. 4 to 9 and secs. 16 to 36, inclusive;
 T. 4 N., R. 9 W., secs. 19 to 21 and secs. 28 to 33, inclusive;
 Tps. 1 to 3 N., inclusive, R. 10 W., all;
 T. 4 N., R. 10 W., secs. 4 to 9 and secs. 16 to 36, inclusive;
 Tps. 1 to 4 N., inclusive, R. 11 W., all;
 T. 5 N., R. 11 W., S½;
 Tps. 2 to 4 N., inclusive, R. 12 W., all;
 T. 5 N., R. 12 W., secs. 20 to 29 and secs. 32 to 36, inclusive;
 Tps. 2 to 4 N., inclusive, R. 13 W., all;
 Tps. 2 and 3 N., R. 14 W., all;
 T. 4 N., R. 14 W., that part lying south of U. S. Highway No. 60;
 Tps. 1 to 3 N., inclusive, R. 15 W., all;
 T. 4 N., R. 15 W., that part lying south of U. S. Highway No. 60;
 Tps. 1 to 3 N., inclusive, R. 16 W., all;
 T. 4 N., R. 16 W., that part lying south of U. S. Highway No. 60;
 Tps. 1 to 3 N., inclusive, Rs. 17 to 19 W., inclusive, all;
 Tps. 1 to 9 S., inclusive, R. 1 W., all;
 T. 1 S., R. 2 W., that part lying south of the Gila River;
 Tps. 2 to 9 S., inclusive, R. 2 W., all;
 T. 1 S., R. 3 W., that part lying south of the Gila River;
 Tps. 2 to 9 S., inclusive, R. 3 W., all;
 Tps. 10 and 11 S., R. 3 W., all exclusive of the Papago Indian Reservation;
 T. 1 S., R. 4 W., that part lying south of the Gila River;
 Tps. 2 to 11 S., inclusive, R. 4 W., all;
 T. 12 S., R. 4 W., all exclusive of the Papago Indian Reservation;
 Tps. 1 to 4 S., inclusive, R. 5 W., all;
 T. 5 S., R. 5 W., all exclusive of Gila Bend Indian Reservation;
 Tps. 6 to 13 S., inclusive, R. 5 W., all;
 T. 14 S., R. 5 W., secs. 1 to 18, inclusive;
 Tps. 1 to 13 S., inclusive, R. 6 W., all;
 T. 14 S., R. 6 W., secs. 1 to 18, inclusive;
 Tps. 1 to 13 S., R. 7 W., all;
 T. 14 S., R. 7 W., secs. 1 to 18, inclusive;
 Tps. 1 to 13 S., R. 8 W., all;
 T. 14 S., R. 8 W., N½;
 Tps. 1 to 10 S., and 12 to 17 S., inclusive, R. 9 W.;
 Tps. 1 to 3 S., 6 to 10 S., and 12 to 16 S., inclusive, R. 10 W.;
 T. 2 S., R. 11 W., S½;
 T. 3 S., R. 11 W., all;
 T. 4 S., R. 11 W., N½;
 Tps. 12 to 16 S., R. 11 W., all;
 Tps. 12 to 15 S., inclusive, Rs. 12 to 14 W., inclusive, all;
 Tps. 1 to 4 S., and 12 to 14 S., inclusive, R. 15 and 16 W., all;
 Tps. 1 to 5 S., inclusive, R. 17 W., all;
 Tps. 12 to 14 S., inclusive, R. 17 W., E½;
 Tps. 1 to 5 S., inclusive, R. 18 W., all;
 T. 2 S., R. 19 W., E½;
 T. 3 S., R. 19 W., all;
 Tps. 4 and 5 S., R. 19 W., E½;
 T. 2 S., R. 1 E., secs. 19 to 36, inclusive;
 Tps. 3 to 8 S., inclusive, R. 1 E., all;

No. 141—3

T. 9 S., R. 1 E., secs. 1 to 18, inclusive;
 T. 5 S., R. 2 E., secs. 5 to 9, 16 to 20, and 29 to 32, inclusive;
 T. 6 S., R. 2 E., secs. 5 to 8, 17 to 21, 28 to 33, inclusive;
 T. 7 S., R. 2 E., W½.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this district from and after the date of the publication of this order in the FEDERAL REGISTER.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-2082; Filed, July 20, 1938;
 9:53 a. m.]

GENERAL LAND OFFICE

[Order No. 1294]

LEASES OR USE PERMITS FOR MINING OF PHOSPHATE

JULY 2, 1938.

In the interest of the public pending investigation by the Congress pursuant to the message of the President dated May 20, 1938, and Senate Joint Resolution 298, approved June 16, 1938, of the adequacy and use of the phosphate resources of the United States, it is hereby ordered that until further notice no action be taken in the matter of granting leases or use permits for the mining of phosphate under the act of February 25, 1920 (41 Stat. 437).

However, in any particularly meritorious case when, in the judgment of the Secretary of the Interior, the granting of a lease is in the public interest, the provisions of this order may be waived.

This order has no applicability to outstanding leases. Applications for phosphate leases may be filed while this suspension order is in effect but no rights of any kind are thereby acquired.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2083; Filed, July 20, 1938;
 9:53 a. m.]

[Circular 1448]

REGULATIONS AND FOREST PRACTICE RULES FOR THE SALE OF TIMBER FROM THE REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS SITUATED IN THE STATE OF OREGON

I. THE ACT OF AUGUST 28, 1937 (50 STAT. 874)

Title I of the Act of August 28, 1937, entitled, "An Act Relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon", provides:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions in the Acts of June 9, 1916 (39 Stat. 218), and February 26,

1919 (40 Stat. 1179), as amended, such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and powersite lands valuable for timber, shall be managed, except as provided in section 3 hereof, for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream-flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities: Provided, That nothing herein shall be construed to interfere with the use and development of power sites as may be authorized by law.

The annual productive capacity for such lands shall be determined and declared as promptly as possible after the passage of this Act, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: Provided, That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market.

If the Secretary of the Interior determines that such action will facilitate sustained-yield management, he may subdivide such revested lands into sustained-yield forest units, the boundary lines of which shall be so established that a forest unit will provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries of the region; but until such subdivision is made the land shall be treated as a single unit in applying the principle of sustained yield: Provided, That before the boundary lines of such forest units are established, the Department, after published notice thereof, shall hold a hearing thereon in the vicinity of such lands open to the attendance of State and local officers, representatives of dependent industries, residents, and other persons interested in the use of such lands. Due consideration shall be given to established lumbering operations in subdividing such lands when necessary to protect the economic stability of dependent communities. Timber sales from a forest unit shall be limited to the productive capacity of such unit and the Secretary is authorized, in his discretion, to reject any bids which may interfere with the sustained-yield management plan of any unit.

Sec. 2. The Secretary of the Interior is authorized, in his discretion, to make cooperative agreements with other Federal or State forest administrative agencies or with private forest owners or operators for the coordinated administration, with respect to time, rate, method of cutting, and sustained yield, of forest units comprising parts of revested or reconveyed lands, together with lands in private ownership or under the administration of other public agencies, when by such agreements he may be aided in accomplishing the purposes hereinbefore mentioned.

Sec. 3. The Secretary of the Interior is authorized to classify, either on application or otherwise, and restore to homestead entry, or purchase under the provisions of section 14 of the Act of June 28, 1934 (48 Stat. 1269), any of such revested or reconveyed land which, in his judgment, is more suitable for agricultural use than for afforestation, reforestation, stream-flow protection, recreation, or other public purposes.

Any of said lands heretofore classified as agricultural may be reclassified as timber lands, if found, upon examination, to be more suitable for the production of trees than agricultural use, such reclassified tim-

ber lands to be managed for permanent forest production as herein provided.

Sec. 4. The Secretary of the Interior is authorized, in his discretion, to lease for grazing any of said revested or reconveyed lands which may be so used without interfering with the production of timber or other purposes of this Act as stated in section 1: *Provided*, That all the moneys received on account of grazing leases shall be covered either into the "Oregon and California land-grant fund" or the "Coos Bay Wagon Road grant fund" in the Treasury as the location of the leased lands shall determine, and be subject to distribution as other moneys in such funds: *Provided, further*, That the Secretary is also authorized to formulate rules and regulations for the use, protection, improvement, and rehabilitation of such grazing lands.

Sec. 5. The Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect. The Secretary of the Interior is further authorized, in formulating forest-practice rules and regulations, to consult with the Oregon State Board of Forestry, representatives of timber owners and operators on or contiguous to said revested and reconveyed lands, and other persons or agencies interested in the use of such lands.

In formulating regulations for the protection of such timberlands against fire, the Secretary is authorized, in his discretion, to consult and advise with Federal, State, and county agencies engaged in forest-fire-protection work, and to make agreements with such agencies for the cooperative administration of fire regulations therein: *Provided*, That rules and regulations for the protection of the revested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States."

II. POLICY STATEMENT

The Act of August 28, 1937 (50 Stat. 874), is a measure providing for the conservation of land, water, forest and forage on a permanent basis, the prudent utilization of these resources for the purposes to which they are best adapted, and the realization of the highest current income consistent with undiminished future returns. Title I of the Act seeks through application of the principles of sustained yield management to provide perpetual forests which will serve as a secure foundation for continuing industry and permanent communities. The Act also provides for the flow of a full measure of the benefits produced by a well managed forest to the people of the region in which the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands are situated.

Proceeding in accordance with the requirements of the Act, it will be the policy of the Department of the Interior to restrict the cutting of timber on the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands to a total volume of 500,000,000 feet B. M. per annum pending an intensive examination of the property, the determination of the productive capacity of the land, and the formulation of a detailed forest working plan. It will further be the policy of the Department to direct such cutting under rules of forest practice providing for partial or selective

logging in its various forms of tree, group and area selection. Tree selection will be required in stands of Ponderosa Pine and other intolerant species, and group and area selections will be favored in Douglas Fir and the more tolerant species. There are many different ways in which selective cutting may be applied and a reasonable degree of discretion will be permitted field officers in the exercise of their judgment in prescribing the method or methods to be applied to a given sale unit. However, destructive methods which may tend to prevent an early restocking of the area under development are not authorized by the Act of August 28, 1937, and will not be permitted.

Prompt reforestation, following cutting of timber, so that the land may be kept continuously productive and to the end that the sustained yield of timber products may be maintained at a high level will be among the principal objectives of management.

Short term sales of restricted quantities of timber will be favored during the formulation of the detailed working plan, the division of the area into sustained yield forest units, and the development of cooperative agreements with operators, private timber owners and State and Federal agencies. During this period the quantities of timber offered for sale will be sufficient to supply the normal needs of industry and to keep labor employed. Consideration will be given to the requirements of established operations to avoid unnecessary interference with their normal plans of development. However, contracts extending over periods of more than three years will not ordinarily be approved prior to the placing of the area under a permanent plan of management.

The property as a whole will ultimately be subdivided into local sustained yield units, after making a careful study of the economic factors which must be weighed before the definite establishment of such units and after consultation with the local and State interests which are involved. The allocation of timber to particular units will be carried out as fairly and equitably as possible, giving full consideration to existing operations and the policy of stabilizing and perpetuating substantial dependent communities. Cutting will be encouraged in and directed toward mature and over-mature Douglas Fir stands and will be discouraged in young thrifty types that show a high current increment.

The Act refers to certain secondary benefits of the forest which are to be conserved by the new plan of management. It requires that the management practices employed shall provide agricultural opportunities, recreational facilities, water-shed protection, and stream-flow regulation.

In compliance with this mandate, all lands classified for continuous timber production shall be so managed as to maintain or restore on them the best ob-

tainable forest cover, to the end that soil may be protected from erosion, rainfall stored and its run-off retarded, floods avoided and the landscape kept green and attractive. In furtherance of this policy and in order to furnish recreational facilities, scenic strips of merchantable timber may be reserved adjacent to public roads, along stream courses and surrounding lakes.

When reservations of this character are made they shall be of such form and extent as to minimize the danger of damage due to storms or other natural causes. They shall be so planned as to avoid unnecessary interference with the normal and proper conduct of logging operations on adjacent lands. Dead and dying and over-mature trees may be selectively cut and removed from the reserved stands where this can be accomplished economically and without serious damage to recreational values.

Land shall be classified for agricultural use only where conditions indicate the probability of a permanent agriculture of better than marginal economy.

Grazing under regulation is authorized where it will not interfere with the attainment of the principal goal of forest management, namely, a high sustained yield of commercial timber from all areas classified as permanent forest land.

III. REGULATIONS GOVERNING THE SALE OF TIMBER

1. Applications for the purchase of timber.—Applications for the purchase of timber from the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands under authority of the Act of August 28, 1937, should be made in writing to the Chief Forester, O. & C. Lands at Portland, Oregon, on forms provided therefor. Upon the receipt of applications for purchase the Chief Forester will conduct an investigation of the timber applied for and if the sale as proposed meets with the requirements of the Act of August 28, 1937, that officer will authorize the advertisement of the timber or recommend such advertisement to the Commissioner of the General Land Office or the Secretary of the Interior, as provided in these regulations. Offerings of timber for sale may also be made from time to time without the receipt of application when in the judgment of the department such action is necessary to effective management.

2. Qualifications of purchasers: Limitations on sales.—No sale will be made for less than the appraised price and the right to purchase at any sale will be limited, in accordance with law, to citizens of the United States, associations of such citizens, and corporations organized under the laws of the United States, or any State, Territory, or district thereof. Native born citizens will be required to file an affidavit to that effect in connection with the first purchase, and naturalized citizens will be required to furnish either the original cer-

tificate of naturalization or duly certified or attested copy thereof, which copy, if of a certificate of naturalization issued after September 26, 1906, must be on the form prescribed by the Bureau of Naturalization. Corporations will be required to furnish either the original certificate of incorporation, or a duly certified or attested copy thereof. A corporation organized outside of the State of Oregon must also show by a certificate by a proper State official that it has been authorized to do business within the State of Oregon.

3. Examination and report.—Before any timber is advertised or sold it shall be examined and appraised by the Chief Forester or his representative, and a complete report covering the sale area filed with the officer who is to approve the sale. The report should consist of a description of the area, an estimate of the volume to be removed, an appraisal of the value of the timber by species, the plan of development best adapted to the area, the cost of development, the investment required, and the market value of the products manufactured from the timber.

The report should also include details with respect to the silvicultural practice to be followed, plans for brush disposal, fire protection and any special considerations which should be incorporated in the contract in protection of the interest of the United States. The report should be accompanied by a copy of the form of advertisement to be used, a copy of the proposed contract and bond, and a map of the sale area.

4. Advertisement of sales.—All sales of timber of a stumpage value in excess of \$100 shall be made only after due advertisement and under sealed bids, and each advertisement must be approved by the officer who will approve the contract. If the stumpage value of the timber offered does not exceed \$2,000, the advertisement may be made in a newspaper or by posters and circular letters. If the stumpage value exceeds \$2,000 the advertisement must be made in at least one newspaper of general circulation in the locality where the timber is situated. For sales in which the stumpage value of the timber does not exceed \$10,000 the advertisement shall be for not less than two weeks; for sales exceeding \$10,000 but not over \$100,000 not less than four weeks, and for all sales exceeding \$100,000 not less than eight weeks.

5. Deposits with bids.—Cash deposits shall be submitted with each proposal for the purchase of timber from the re-vested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands. Such deposits shall be at least 20 per cent of any estimated stumpage value which is less than \$1,000; at least 10 per cent of any estimated stumpage value between \$1,000 and \$10,000; at least 5 per cent of any estimated stumpage value between \$10,000 and \$100,000; and at least 3 per cent of any estimated stumpage value exceed-

ing \$100,000. Every deposit must be made in cash or in the form of a duly certified check on a solvent national bank, drawn payable to the order of the Chief Forester of the O. & C. Lands. Deposits with bids are required as a guarantee of good faith, and when a bond is not executed the deposit of the successful bidder will be retained until the contract is completed. In the final settlement the deposit will be credited as a portion of the whole amount due for the timber purchased and any balance returned, provided the Purchaser has faithfully performed the terms of the contract. If a bond is furnished and accepted, the deposit will be credited as a first installment in the payment for the timber. Checks of unsuccessful bidders will be returned upon the award of the bid.

6. Acceptance and rejection of bids.—Under ordinary circumstances the high bid received in connection with any advertisement issued under authority of these regulations will be accepted. However, the officer authorized to approve the contract shall have the right to reject the high bid and re-advertise if he considers the high bidder to be unqualified to fulfill the contractual requirements of the advertisement. The right is also reserved to reject any bid which may interfere with the sustained yield management plan of any sustained yield unit.

7. Financial position of purchasers.—In all sales in excess of \$5,000, and in smaller sales when necessary, the successful bidder will be required, prior to the award of the timber, to submit a complete financial statement of his ability to fulfill the terms of the contract. Additional information with respect to the ability of the bidder to perform the contract, inclusive of data covering plant and equipment, etc., may be required before the award of the bid, in the discretion of the officer approving the contract.

8. Contracts.—Every timber sale contract shall be a clear statement of the obligations of the purchaser and of the Government. As a matter of convenience a standard form of timber contract has been provided and all sales of timber having a stumpage value in excess of \$100 will be consummated through the use of the standard form, unless a special form for a particular sale is approved by the Secretary of the Interior. The standard form provides for a reasonable degree of flexibility to meet variable conditions and no essential departure from the fundamental requirements thereof may be authorized, except with the approval of the Secretary. The Forest Practice Rules which have been incorporated in and made a part of these regulations shall be attached to and made a part of each timber sale contract.

All contracts should be executed in quadruplicate by the parties in interest. In connection with contracts approved by the Chief Forester, O. & C. Lands, that officer will sign as both party of the first part and as the approving offi-

cer. A copy of such contract, together with a complete report covering the essential facts in connection therewith, should be submitted to the Commissioner of the General Land Office for examination and filing. In contracts requiring the approval of the Commissioner of the General Land Office or the Secretary of the Interior, the Chief Forester, O. & C. Lands, will sign as the party of the first part, and all copies thereof, together with a report and a recommendation, will be submitted to the approving officer for final action.

9. Bonds.—In sales of timber in which the value of the stumpage does not exceed \$5,000 the initial deposit may be retained as a cash bond until the contract is completed. In sales of timber in which the stumpage value exceeds \$5,000 but is not over \$10,000 a bond of approximately 20 per cent of the value of the timber will be required. In sales of timber in which the stumpage value exceeds \$10,000 but is not over \$100,000 a bond in an amount of approximately 10 per cent of the estimated value of the timber will be required and in sales in which the stumpage value exceeds \$100,000 a bond will be required in an amount to be fixed by the Secretary of the Interior. Ordinarily corporate surety bonds will be required. However, if personal sureties are furnished in lieu thereof, such sureties will be accepted and the bond approved only upon a clear showing by the principals and the bondsmen that they are fully capable of carrying out the terms of the agreement.

10. Approval of contracts and bonds.—Contracts covering sales of timber having a stumpage value of \$25,000 or less may be approved by the Chief Forester, O. & C. Lands. Contracts covering sales of timber having a stumpage value between \$25,000 and \$50,000 will be approved by the Commissioner of the General Land Office. Contracts covering sales in which the stumpage value exceeds \$50,000 shall be made only with the express approval of the Secretary of the Interior. Bonds guaranteeing the faithful performance of contracts shall be approved by the officer approving the contracts.

11. Payments for timber.—Payments for timber shall be required in advance of cutting, either as a single payment or in the form of installments. In sales having a stumpage value of not more than \$1,000 payment will ordinarily be required in full before cutting is started. In sales of timber having a stumpage value of \$1,000 to \$5,000 payment shall be made in installments of not less than \$1,000 each; in sales of from \$5,000 to \$25,000 in installments of not less than \$2,500 each; and in sales of from \$25,000 to \$100,000 in installments of not less than \$5,000 each; provided that the last installment on any sale may be in an amount equal to the balance due and payable thereon. In sales in which the stumpage value is in excess of \$100,000

the amount of the installments shall be determined at the time such sales are authorized; provided that the amount so fixed shall not be less than \$5,000 for each installment.

12. *Time for cutting and removal of timber.*—The maximum periods which shall be allowed for the cutting and removal of timber after the date the contract has been approved shall be as follows: For sales having a stumpage value of from \$1,000 to \$5,000, two years; for sales of timber having a stumpage value of \$5,000 to \$10,000, three years; for sales over \$10,000 but not exceeding \$25,000, five years; and for sales exceeding \$25,000 the number of years to be fixed by the Commissioner of the General Land Office or the Secretary of the Interior at the time such sales are authorized.

13. *Reappraisals.*—Timber sale contracts of more than five years' duration will provide for the redetermination of stumpage prices after reappraisal at stipulated intervals. Ordinarily reappraisals will be made and new rates established by the Secretary every three years subsequent to the year in which cutting operations are initiated. Special contract forms similar to the standard form but inclusive of a reappraisal clause will be formulated and approved by the Secretary for all sales of more than five years' duration.

14. *Timber cutting permits.*—All timber cutting which is not done under formal contract may be authorized on the standard permit form. The permit form has been devised as a convenience in meeting the requirements of homesteaders, ranchers and local persons for limited quantities of timber for domestic, agricultural and grazing purposes. It should not be used as a substitute for the regular contract form. The maximum value of the stumpage which may be cut under permit in one year by any individual shall not exceed \$100. Permits for the cutting of dead and down timber or for stand improvement may be issued by O. & C. officers without charge. However, a reasonable charge should be made for such merchantable timber as may be authorized for cutting under permit.

15. *Measurement of products.*—All living timber cut under authority of the standard form of contract or permit provided for herein shall be marked or otherwise designated by an authorized forest officer of the General Land Office. Timber shall be paid for on the basis of the cruised volume which, in group and area selection, will be determined in the accepted commercial manner, and in tree selection, will be determined by individual tree scale.

In view of the scattered location of a large part of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands the determination of volume by cruising or tree measurement will be more or less generally applied.

On comparatively large timber sales when the regular method of log scaling is

practicable of application this method may be used since it insures a higher degree of accuracy than does cruising or the tree measurement method. The Scribner Decimal C log rule shall be used on all sales where the logs are scaled after the timber is cut, and this rule shall be the basis of volume determination in cruising or tree measurement.

16. *Records and reports.*—A complete record of timber sale activities shall be maintained in the Office of the Chief Forester, O. & C. Lands at Portland, Oregon, and that officer shall make monthly and annual reports to the Commissioner of the General Land Office concerning all details of administration.

The field record of timber sales shall consist of scale books, scale reports and a register of scale reports showing the volume scaled or measured on each sale unit, the payments received therefor and the disposition of the moneys so received.

Progress reports of the timber scaled or measured in each unit under development should be mailed each month to the Commissioner of the General Land Office, together with a summary of all sales and an analysis of the cost of administration. At the close of the fiscal year a detailed annual report must be rendered to the Commissioner by the Chief Forester, O. & C. Lands. This report should include a summary of the business conducted during the year, an analysis of the cost of administration, a detailed budget set-up of administrative requirements and a complete statement of the progress achieved in connection with the formulation of a permanent forest working plan for the property.

17. *Acquisition of rights of way.*—The procedure governing the filing of applications and the granting of rights of way over public domain land under the various rights of way acts will be followed with respect to rights of way over the revested and reconveyed lands; provided, a sum sufficient to cover the estimated damage shall be deposited with the Chief Forester prior to construction, and provided further, that suitable stipulations will be required in connection with the granting of all rights of way for the protection of the various conservation measures contemplated by law.

IV. FOREST PRACTICE RULES AND GENERAL CONTRACT STIPULATIONS

The following forest practice rules and general contract stipulations are hereby prescribed for use in all contracts for the sale of timber from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon, except as special provision shall be made by the Secretary of the Interior with respect to particular sales.

18. *Definitions.*—The word "Chief Forester" as used in these forest practice rules and contract stipulations signifies the Chief Forester, O. & C. Lands. His office and principal place of business shall be in the City of Portland, Oregon.

The term "officer in charge" whenever used in these stipulations signifies the forest officer of highest rank assigned to the administration of timber sales within the District in which the sale is located, or such other officer as may be designated by the Chief Forester to supervise the sale.

Foresters, logging engineers, log scalers and other officers authorized to administer timber sales will be appointed by the Secretary of the Interior and receive their instructions from the Chief Forester or the officer in charge.

19. *Basis of sale.*—Timber shall be sold on the basis of cruise, tree scale or log scale, and no timber except that necessary for improvements or that which interferes with the economical conduct of a logging enterprise shall be cut unless it has been marked or designated in advance by the officer in charge. Where volumes are determined on the basis of a scale of the standing trees, such volumes shall be checked for accuracy by a periodic scaling of the logs on sample areas. The purchaser shall be permitted to witness such check scaling. Where the volume is determined by log measurement the Scribner Decimal C log rule will be used in scaling the logs.

20. *Deposits.*—Cash deposits in advance of cutting will be required as stipulated in the contract. The title to standing timber or forest products covered by the contract will not pass to the purchaser until such timber or products are paid for. If at any time the stumpage value of the timber cut and unpaid for shall approach or equal the total amount then on deposit, an additional advance deposit shall be required.

21. *Logging areas designated by.*—The priority of areas to be logged, when economically feasible, may be designated by the officer in charge if such action is necessary to prevent deterioration from fire, insects or disease, and to fully protect the interests of the United States.

22. *Selective logging.*—The logging of areas in such manner as to preserve a part of the merchantable timber, promote the growth of young trees, or preserve the forest cover, shall be practiced on all lands chiefly valuable for the production of timber. The general plan of selective logging to be followed may take any of the various forms of tree selection, group selection or area selection, or combinations thereof, which in the judgment of the Chief Forester will assure the successful conservation and protection of the resources under development.

23. *Reservations for public purposes.*—In the discretion of the officer in charge, a strip of suitable width on each side of lakes, streams, roads, and trails and in the vicinity of camping places and recreation grounds may be reserved, in which little or no cutting will be allowed. In carrying out the selective cutting in these areas all reasonable care shall be taken to avoid injury to the remain-

ing standing timber. Within these reserved areas trees shall be felled in such manner as to leave the right of way, streams and lake shores free from slash deposits.

24. *Protection of young growth.*—The young growth shall be protected as fully as possible in every branch of the logging operations and its use in the construction of improvements may be restricted by the officer in charge.

25. *Fire code.*—Section 5 of the Act of August 28, 1937, provides in part, "That rules and regulations for the protection of the re vested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States", and proceeding in accordance therewith, contractors will be required to comply with applicable provisions of the State fire code, as well as the following:

(a) The slash resulting from logging operations shall be burned only under written permit from the Chief Forester acting in cooperation with the State Forester. In the Douglas fir type on areas logged in the group or area selection manner the burning of slash, where required, shall be carried out in accordance with the best and safest practices recognized in the "Forest Practice Handbook" of the Pacific Northwest Loggers and the West Coast Lumbermen's Associations. Adequate special protection shall be given to all reserved timber. Proper fire trails shall be constructed as required by the Chief Forester where necessary in advance of slash burning to protect green timber areas, islands of immature timber and previously logged areas that have been cleared of slash. Where the tree selection method of logging is used special methods economically possible shall be worked out by the Chief Forester in cooperation with the State Forester and the purchaser. In the Ponderosa pine type slash disposal shall be carried out in accordance with the Rules of Forest Practice (Oregon) of the Western Pine Association. Special provisions may be developed by the Chief Forester in cooperation with the State Forester and the purchaser.

(b) Smoking and lunch fires shall be restricted during periods of fire hazard and shall be permitted only in especially prepared places.

(c) The contractor shall be required to stop logging operations in especially hazardous fire weather upon request from the Chief Forester.

26. *Responsibility for damage.*—The contractor shall be held accountable for any damage to virgin timber, reserve stands or young growth, occurring as a result of slash burning or other fires originating on the sale area or adjacent lands and shall be required to pay for such damage on the basis of an appraisal to be conducted by the Chief Forester; provided the Purchaser, his

subcontractors or employees are directly or indirectly responsible for the origin or spread of the fire.

27. *Sales—Rights of way.*—Other sales within a sale area may be made of products and kinds of timber not sold under a previous sale, provided such sales will not, in the judgment of the officer having authority to make such sale, interfere with the operations of the previous purchaser. The previous purchaser shall not be held liable for any damage by fire or other causes for which such additional purchasers are directly or indirectly responsible. Rights of way may be granted through portions of the sale area during the contract period, provided they do not interfere with the operations of the previous purchaser.

28. *Firewood—Improvements.*—As far as possible only unmerchantable timber other than young growth shall be used for firewood and improvements, and material so used will not be charged to the Purchaser. Wood and improvements taken from merchantable material will be scaled or measured, charged, and paid for at its appraised value.

29. *Stumps.*—Stumps will be cut low so as to avoid unnecessary waste.

30. *Waste.*—Unnecessary waste of merchantable timber not previously paid for in high stumps, butts, tops, breaks, skids, and partially sound logs and all trees designated for logging which are not logged and all trees which are left felled or lodged or badly damaged by the logging operations will be scaled for their merchantable contents and charged against the Purchaser.

31. *Carelessness—Breakage.*—Carelessness on the part of fellers or other employees of the Purchaser that results in unnecessary breaking of trees not previously cruised or scaled will be penalized by scaling such trees full as if they had not been broken.

32. *Sanitation.*—The vicinity of logging camps and stables will be kept in a clean and sanitary condition, and rubbish will be removed and properly burned or buried during the occupancy and upon the removal of the camps and stables.

33. *Pollution: Obstruction of Streams.*—Streams shall not be obstructed by felled trees or otherwise, nor shall they be polluted by sawdust, manure, or any other refuse from a camp or mill.

34. *Utility Facilities.*—Existing telephone lines, fences, roads, trails, and other improvements shall be protected as far as possible in the logging operations, and whenever they are broken or obstructed the Purchaser shall promptly repair the damage. If he fails to make the repairs promptly, the officer in charge may make the repairs and purchasers may be charged with double the expense thereof.

35. *Necessary Improvements.*—Improvements necessary to execute his contracts, such as camps, sawmills, railroads, roads, telephone lines, chutes,

bridges, sluices, and dams may be constructed and maintained by the Purchaser on and across the contracted area, subject to regulation by the Commissioner of the General Land Office.

36. *Existing Improvements.*—Improvements already on the area which are necessary for logging purposes may be used by the Purchaser, subject to regulation by the Commissioner of the General Land Office.

37. *Time for removal of improvements.*—The time limit for the removal of the improvements and other property of the Purchaser is one year after the expiration of the contract. After that time the title to improvements, including camps, will attach to the land, and no personal property of the purchaser will thereafter be removed except with the written consent of the officer in charge: Provided, That improvements necessary for the logging of other O. & C. timber may be left for such time and on such terms as may be prescribed by the Commissioner of the General Land Office.

38. *Extension of time.*—Extension of time for the performance of any contract may be granted the Purchaser by the officer approving the contract, in his discretion and subject to such conditions as he may impose.

39. *Extension of time denied.*—If extension of time to cut and remove the timber is not granted by the officer approving a contract, the Purchaser shall not cut timber after the expiration of the contract, but he may remove the timber previously cut and paid for, within one year of the expiration of the contract. If not removed within the time allowed, the title will revert to the United States notwithstanding the Purchaser may have paid for the timber.

40. *Assignments by purchaser.*—Assignment of any contract in whole or in part by the Purchaser will not relieve him of his contract obligations unless the assignment is approved by the officer approving the contract and the bond is satisfactorily renewed.

41. *Records—Reports.*—The Purchaser shall furnish the Chief Forester annually on forms provided therefor, a report of the amount of lumber sold and the average grade prices received f. o. b. the mill during the preceding year; the amount of ties and timber sold, with average price per M; and the amount of by-products sold and the total receipts for the same, and such other information as may be requested. These reports will be regarded as confidential.

42. *Suspension of Operations—When.*—Suspension of the Purchaser's operations may be made by the Chief Forester after due notice if any requirements of the contract and of these stipulations are disregarded and until there is satisfactory compliance. Failure to comply with any one of the requirements of the contract after written notice addressed to the Purchaser by the

officer in charge will be ground for revocation by the officer approving the contract of all rights of the Purchaser under this and other contracts, and the forfeiture of his bond and of all moneys paid, and the Purchaser will be liable for all damage resulting from his breach of contract.

43. *Appeal.*—An appeal as provided by the Rules of Practice of the Department of the Interior may be taken to the Commissioner of the General Land Office and Secretary of the Interior from the final decision of the Chief Forester or his staff.

44. *Bond unsatisfactory.*—Whenever any bond furnished to guarantee obligations under a sale shall be unsatisfactory to the officer approving the sale he may require a new bond which shall be satisfactory to him.

45. *Default.*—Wilful failure of the purchaser to complete his contract or to log as promptly as economically possible an area damaged by fire, wind, insects, or other causes, or the commission by him of any act for which the officer approving his contract shall declare the contract forfeited, will render the Purchaser and his bondsmen liable for the depreciation in the value of the remaining timber on an estimate of value and quantity to be made under the direction of the officer approving this contract.

46. *Persons Excluded.*—No member of or delegate to Congress shall be admitted to any share, part, or interest in any contract, or to any benefit derived therefrom (see Secs. 114 and 116, Act of March 4, 1909, entitled "An Act to codify, revise and amend the penal laws of the United States," 35 Stats. L., 1088, 1109), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract (see Executive Order of May 18, 1905).

47. *Forms.*—Forms for application, bid, contract, and bond heretofore approved by the Secretary of the Interior will be made available through the Commissioner of the General Land Office.

48. These regulations shall be effective and operative sixty days from the date of approval.

FRED W. JOHNSON,
Commissioner.

Approved, July 7, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-2081; Filed, July 20, 1938,
9:52 a. m.]

[Circular 1383a]

DISPOSITION OF FILING FEES ACCOMPANYING APPLICATIONS FOR LEASES, PERMITS AND OTHER RIGHTS UNDER THE MINERAL LEASING ACTS

1. When filing fees will be applied as earned or returned to applicant.—Fees paid with applications for leases, permits or other rights under the mineral leasing act of February 25, 1920 (41 Stat.

437), under the amendment thereof as to sodium dated December 11, 1928 (45 Stat. 1019), under the potash leasing act of February 7, 1927 (44 Stat. 1057), or under the sulphur leasing act of April 17, 1926 (44 Stat. 301), shall be applied as earned by the Register immediately upon receipt of notice from the General Land Office that the application has been adjudicated and the lands found subject to lease, permit or other right. Pending such notification, or notice of the final disposition of an application, the Register will hold the fee as "deposits, unearned proceeds, lands, etc."

Fees paid in connection with applications for coal leases, permits or licenses which are rejected will not be returned in any event unless and until authorized by the General Land Office upon receipt of a report from the Division of Investigations, or the applicant has furnished an affidavit stating that he has not mined any coal from the land embraced in the rejected application for which payment has not been made.

2. *Regulations superseded.*—These regulations supersede the regulations contained in Circular No. 1383,¹ approved April 14, 1936 (55 I. D. 483), effective August 1, 1938.

FRED W. JOHNSON,
Commissioner.

Approved, July 13, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-2084; Filed, July 20, 1938;
9:53 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

WISCONSIN

JULY 19, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Wisconsin State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; ² and (2) the following additional counties: Burnett, Monroe, and Waushara.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2078; Filed, July 20, 1938;
9:32 a. m.]

¹ F. R. 234.

² F. R. 110 DL.

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

NOTICE OF MEETING OF EXECUTIVE COMMITTEE, BOARD OF SUPERVISING INSPECTORS

JULY 18, 1938.

Pursuant to authority conferred by Section 4405, R. S., I hereby call a meeting of the Executive Committee of the Board of Supervising Inspectors of the Bureau of Marine Inspection and Navigation, consisting of Commander R. S. Field, Director; Captain George Fried, Supervising Inspector, Second District; and Captain Chester W. Willett, Supervising Inspector, Sixth District; to take place in the office of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, Washington, D. C., beginning at 10:00 A. M. Tuesday, July 26, 1938, for the purpose of considering amendments to the Rules and Regulations and for the transaction of such other business as may come before the meeting.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38-2100; Filed, July 20, 1938;
12:48 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3062]

IN THE MATTER OF J. PALAZZOLO

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, August 12, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 304, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner

will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2088; Filed, July 20, 1938;
10:13 a. m.]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3364]

**IN THE MATTER OF GIMBEL BROTHERS, INC.,
A CORPORATION, AND MORRIS KAPLAN &
SON, INC., A CORPORATION**

**ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 1, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 304, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2089; Filed, July 20, 1938;
10:13 a. m.]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3367]

**IN THE MATTER OF SALES ON SOUND COR-
PORATION, A CORPORATION**

**ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant

to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 8, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 304, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2090; Filed, July 20, 1938;
10:13 a. m.]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3369]

**IN THE MATTER OF AMERICAN MEMORIAL
COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, August 25, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 324, Old Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2091; Filed, July 20, 1938;
10:13 a. m.]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3410]

**IN THE MATTER OF R. FRANK YANCEY,
TRADING AS THE MONARCH CHINA COMPANY**
**ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, July 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in the Federal Building, Third Floor, Greensboro, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2092; Filed, July 20, 1938;
10:14 a. m.]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3450]

IN THE MATTER OF JOSIAH L. JONES
**ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered. That the taking of testimony in this proceeding begin on Tuesday, August 2, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, Federal Building, Jacksonville, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2093; Filed, July 20, 1938;
10:14 a. m.]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3455]

**IN THE MATTER OF MONTICELLO DRUG
COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered. That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered. That the taking of testimony in this proceeding begin on Monday, August 1, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, Federal Building, Jacksonville, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2094; Filed, July 20, 1938;
10:14 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 24]

CALIFORNIA MOTOR CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at

its office in Washington, D. C., on the 18th day of July, A. D. 1938.

It appearing that income statements of Class I common carriers of property by motor vehicle (carriers which have gross revenues of \$100,000.00 or over annually from both intrastate and interstate motor carrier operations), which are made respondents in this proceeding, are desirable to aid the Commission in the determination of the above-entitled matter:

It is ordered. That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before August 15, 1938, income statements for the year 1937 and for the six months ended June 30, 1938, or for the first six periods in 1938 instead of the six months ended June 30, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered. That said income statements shall be submitted under oath on the form herewith enclosed which form is hereby made a part of this order:¹

And it is further ordered. That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before August 15, 1938, accompanied by a statement that this order is not applicable to its operations.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2095; Filed, July 20, 1938;
12:17 p. m.]

**SECURITIES AND EXCHANGE
COMMISSION**

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File No. 1-1999]

IN THE MATTER OF CONTINENTAL SECURITIES CORPORATION 15-YEAR 5% DEBENTURES, SERIES A, DUE MAY 1, 1942; \$5 CUMULATIVE PREFERRED STOCK, \$100 PAR VALUE; AND COMMON STOCK, \$5 PAR VALUE

ORDER FOR HEARING

I

It appearing to the Commission:

That Continental Securities Corporation, a corporation, is the issuer of 15-

¹ 3 F. R. 1762 DI.

² Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Year 5% Debentures, Series A, due May 1, 1942; \$5 Cumulative Preferred Stock, \$100 par value; and Common Stock, \$5 par value; and

That said Continental Securities Corporation registered such securities on the Boston Stock Exchange, a national securities exchange, by filing on or about August 6, 1935, an application signed for the company by Mr. W. Gengenbach, Assistant Vice President, with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

That pursuant to Sections 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2, promulgated by the Commission thereunder, said Continental Securities Corporation filed on or about April 29, 1936, and on or about April 26, 1937, its annual reports on Form 15-K for the respective fiscal years ended December 31, 1935, and December 31, 1936, both being signed by Mr. B. A. Cushman, Secretary; and

That Rule KA1, promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule KA2 promulgated pursuant to Section 13 (b) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 15-K as the annual report form to be used for the annual reports of corporations engaged either directly or through subsidiaries primarily in the business of investing and reinvesting or trading in securities for the purpose of revenue and for profit; and

II

The Commission having reason to believe:

That Continental Securities Corporation has failed to comply with Sections 13 (a) and (b) and the Rules and Regulations promulgated thereunder in that it has failed to file the information and documents required by Rule KA1, adopted by the Commission pursuant to Section 13 (a) and has failed to file its annual report for the year ended December 31, 1937, on Form 15-K, as required by Rule KA2 adopted by the Commission pursuant to said Section 13 (b); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Continental Securities Corporation has so failed to comply with said provisions of said

Sections 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of said sections, or of any rule or regulation promulgated by the Commission under said sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said 15-Year 5% Debentures, Series A, due May 1, 1942; \$5 Cumulative Preferred Stock, \$100 par value; and Common Stock, \$5 par value on said Boston Stock Exchange:

It is ordered. That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 27th day of July, 1938, at 10:00 A. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered. That for the purpose of such proceeding, Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2103; Filed, July 20, 1938;
12:59 p. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File Nos. 34-9; 43-88]

IN THE MATTER OF FEDERAL WATER SERVICE CORPORATION

NOTICE OF AND ORDER FOR RECONVENING HEARING

Federal Water Service Corporation, a registered holding company, desiring to propose to its stockholders a voluntary plan of reorganization, heretofore filed with this Commission, (a) an application and two amendments thereto pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935 for a report by the Commission upon such plan, (b) a declaration and two amendments thereto pursuant to the Commission's Rule 12E-

5 with respect to the solicitation of assents to such plan, and (c) a declaration pursuant to Section 7 of said Act with respect to the issues and sales and changes in rights called for by such plan.

A hearing with respect to the foregoing was held and continued subject to call.¹

Subsequently said corporation amended the application and declarations so as to cause the same to relate, in the event the Commission shall determine not to permit such Section 7 declaration, as previously filed and amended, to become effective, to a new and different plan. Such new and different plan provides for reducing, by a proceeding under Section 28 of the General Corporation Law of Delaware, said corporation's stated capital from \$31,356,373.25 to \$13,500,000. Such reduction of capital is to be effected by reducing the stated values of the several classes of stock, all of which are without par value.

It is ordered. That the before mentioned hearing in this matter be reconvened on August 5, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing evidence may be offered with respect to either or both of said plans of reorganization and with respect to said application and declarations as now or hereafter amended.

It is further ordered. That at such hearing cause be shown why the before-mentioned declarations shall become effective.

Notice of such reconvening of such hearing is hereby given to Federal Water Service Corporation and all others who have appeared in this proceeding and to any other person whose participation in this proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to this proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2102; Filed, July 20, 1938;
12:59 p. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[2 F. R. 2464 (2864 DD).]

[File No. 52-9]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Atlas Corporation, a Delaware corporation;

It is ordered. That a hearing on such matter be held on August 8, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered. That Edward C. Johnson, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 3, 1938.

The matter concerned herewith is in regard to a plan of reorganization of Utilities Power & Light Corporation which this application asks this Commission to approve prior to submission of such plan to the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings therein pending for the reorganization of said Utilities Power & Light Corporation under Section 77B of the Bankruptcy Act. Said plan is in amendment to and as a substitute for a certain Amended Plan of Reorganization of said Utilities Power & Light Corporation, dated October 23, 1937 for approval of which an application (File No. 52-5) was heretofore filed by said Atlas Corporation and Paul V. Shields, Joseph S. Maxwell and Charlton B. Hibbard as a Protective Committee for Preferred Stockholders of said Utilities Power & Light Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2101; Filed, July 20, 1938;
12:59 p. m.]

